रजिस्ट्री सं. डी.एल. (एन) 04/0007/2003—05 REGD. NO. D. L. (N) 04/0007/2003—05

भारत का राजपत्र
The Gazette of India

सी.जी.-डी.एल.-सा.-02092023-248471
CG-DL-W-02092023-248471

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

साप्ताहिक
WEEKLY

सं. 33] नई दिल्ली, अगस्त 13—अगस्त 19, 2023, शनिवार/श्रावण 22—श्रावण 28, 1945
No. 33] NEW DELHI, AUGUST 13—AUGUST 19, 2023, SATURDAY/SHRAVANA 22—SHRAVANA 28, 1945

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 14 अगस्त, 2023

का.आ. 1287.—भारतीय जीवन बीमा निगम अधिनियम, 1956 (1956 का 31) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, सुश्री आईपे मिनी के स्थान पर श्री आर. दोराईस्वामी (जन्म तिथि: 29.8.1966), कार्यपालक निदेशक (आईटी/एसडी), भारतीय जीवन बीमा निगम (एलआईसी), केन्द्रीय कार्यालय, मुम्बई को दिनांक 1.9.2023 को या उसके पश्चात पद का कार्यभार ग्रहण करने की तारीख से अधिवर्षिता की तारीख (अर्थात 31.8.2026) तक अथवा अगले आदेशों तक, जो भी पहले हो, 2,05,400 रुपए से 2,24,400 रुपए के वेतनमान में भारतीय जीवन बीमा निगम में प्रबंध निदेशक के पद पर नियुक्त करती है।

[फा. सं. ए-11011/04/2023-बीमा-I]

विनोद कुमार, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi the 14th August, 2023

S. O. 1287.—In exercise of the powers conferred by section 4 of the Life Insurance Corporation of India Act, 1956 (31 of 1956), the Central Government hereby appoints Shri R. Doraiswamy (date of birth: 29.08.1966) Executive Director, (IT/SD) Life Insurance Corporation (LIC) of India, Central Office, Mumbai as Managing Director, LIC of India, in the pay scale of Rs. 2,05,400/- to Rs. 2,24,400/- *vice* Ms. Ipe Mini with effect from the date of assumption of charge of office on or after 1.9.2023 and upto the date of his superannuation (i.e. 31.08.2026), or until further orders, whichever is earlier.

[F. No. A-11011/04/2023-Ins.I]

VINOD KUMAR, Under Secy.

विदेश मंत्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 10 अगस्त, 2023

का.आ. 1288.—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के प्रधान कोंसलावास ह्यूस्टन में श्री मदन लाल, सहायक अनुभाग अधिकारी, को 10 अगस्त, 2023 से सहायक कांसुलर अधिकारी के रूप में कांसुलर सेवाओं का निर्वहन करने के लिए अधिकृत करती है।

[फा. सं. टी. 4330/01/2023(25)]

एस.आर.एच. फहमी, निदेशक (सीपीवी-I)

MINISTRY OF EXTERNAL AFFAIRS

(CPV Division)

New Delhi, the 10th August, 2023

S.O. 1288.—Statutory Order in pursuance of clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1048), the Central Government hereby appoints Shri Madan Lal, Assistant Section Officer in the Consulate General of India, Houston, as Assistant Consular Officer to perform Consular services with effect from August 10, 2023.

[F. No. T. 4330/01/2023(25)]

S. R. H FAHMI, Director (CPV-I)

नागर विमानन मंत्रालय

नई दिल्ली, 4 अगस्त, 2023

का.आ. 1289.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग), नियम, 1976 के नियम-10 के उप-नियम (4) के अनुसरण में, नागर विमानन मंत्रालय के अंतर्गत, नागर विमानन सुरक्षा ब्यूरो के निम्नलिखित कार्यालयों, जिनमें 80 प्रतिशत कार्मिकों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है।

1 क्षेत्रीय कार्यालय, नागर विमानन सुरक्षा ब्यूरो, पटना

2 क्षेत्रीय कार्यालय, नागर विमानन सुरक्षा ब्यूरो, देहरादून

[फा. सं. ई. 11014/9/2015-रा.भा.]

पीयूष श्रीवास्तव, वरिष्ठ आर्थिक सलाहकार एवं अपर सचिव

MINISTRY OF CIVIL AVIATION

New Delhi, the 4th August, 2023

S.O. 1289.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (Use for the Official Purposes of the Union) Rules, 1976, the Central Government, hereby notifies the following Offices of the Bureau of Civil Aviation Security, under Ministry of Civil Aviation , whereof 80% staff have acquired the working knowledge of Hindi.

1 Regional Office, Bureau of Civil Aviation Security, Patna

2 Regional Office, Bureau of Civil Aviation Security, Dehradun.

[F. No. E-11014/9/2015-OL]

PIYUSH SRIVASTAVA, Senior Economic Advisor & Addl. Secy.

विद्युत मंत्रालय

नई दिल्ली, 7 अगस्त, 2023

का.आ. 1290.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में विद्युत मंत्रालय के प्रशासनिक नियंत्रणाधीन पावर ग्रिड कार्पोरेशन ऑफ इंडिया लिमिटेड के निम्नलिखित कार्यालयों, जिनके 80 प्रतिशत कर्मचारीवृंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतदद्वारा अधिसूचित करती है:

1. पावर ग्रिड कार्पोरेशन ऑफ इंडिया लिमिटेड
   400 केवी जीआईएस चँदवा उपकेंद्र,
   चँदवा, लातेहार,
   झारखंड, पिन-829203
2. पावर ग्रिड कार्पोरेशन ऑफ इंडिया लिमिटेड,
   400/132 के.वी. उपकेंद्र,
   ग्राम – खड़गवारा, पोस्ट- रामगढ़,
   जिला-लखीसराय,
   बिहार-811311
3. पावर ग्रिड कार्पोरेशन ऑफ इंडिया लिमिटेड,
   ओडिशा परियोजनाएं, क्षेत्रीय मुख्यालय
   प्लॉट सं.-4, यूनिट-41, नीलाद्री विहार,
   चंद्रशेखरपुर, भुवनेश्वर,
   ओडिशा-751021
4. पावर ग्रिड कार्पोरेशन ऑफ इंडिया लिमिटेड,
   400/220 केवी पांडियाबिली उपकेंद्र,
   खोर्धा-पट्टनायिका रोड, तिरिमल, खोर्धा,
   ओडिशा-752050
5. पावर ग्रिड कार्पोरेशन ऑफइंडिया लिमिटेड,
   400 केवी इंद्रावती उपकेंद्र,
   पोस्ट-मुखिगुड़ा, जिला-कलाहांडी,
   ओडिशा-766026

[फा. सं. 11011/06/9/2023-हिंदी]

जितेश जॉन, आर्थिक सलाहकार (रा.भा.)

MINISTRY OF POWER

New Delhi, the 7th August, 2023

S.O. 1290.—In pursuance of Sub Rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976, the Central Government hereby notify the following offices of Power Grid Corporation of India Limited under the administrative control of Ministry of Power, where 80% of the staff have acquired working knowledge of Hindi:

1. Power Grid Corporation of India Limited
   400 KV GIS Chandwa S/S,
   Chandwa, Latehar,
   Jharkhand, Pin-829203
2. Power Grid Corporation of India Limited
   400/132 KV Substation,
   Vill.-Kharagwara, P.O.-Ramgarh,
   Distt-Lakhisarai,
   Bihar-811311
3. Power Grid Corporation of India Limited
   Odisha Projects, Regional Headquarter,
   Plot No.-4, Unit-41, Niladri Vihar,
   Chandrashekharpur, Bhubaneshwar,
   Odisha-751021
4. Power Grid Corporation of India Limited
   400/220 KV Pandiabili Substation,
   Khurda-Pattanaikia Road, Tirimal, Khurda,
   Odisha-752050
5. Power Grid Corporation of India Limited
   400 KV Indravati Substation,
   Post-Mukhiguda, Dist.-Kalahandi,
   Odisha-766026

[F. No. 11011/06/9/2023-Hindi]

JITHESH JOHN, Economic Advisor (In-Charge O.L.)

श्रम और रोजगार मंत्रालय

नई दिल्ली, 8 अगस्त, 2023

का.आ. 1291.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एविएशन कंपनी ऑफ इंडिया लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, हैदराबाद के पंचाट **(संदर्भ संख्या 19/2011)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **07/08/2023** को प्राप्त हुआ था।

[सं. एल-11012/32/2010-आई.आर (सी.एम. -I)]

मणिकंदन एन, उप निदेशक

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 8th August, 2023

S.O. 1291.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award ***(Ref. No. 19/2011)*** of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **National Aviation Company of India Ltd** and their workmen, received by the Central Government on **07*/08/2023.***

[No. L-11012/32/2010 – IR (CM-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR,** Presiding Officer

Dated the 26th day of July, 2023

INDUSTRIAL DISPUTE No. 19/2011

Between:

The Regional Secretary,

Air Corporation Employees Union,

Indian Airlines Limited, Hyderabad -16. .....Petitioner

AND

1. The Executive Director(South), Air India,
   NACIL, Airlines House, Meenambakkam,
   Chennai – 600 017.
2. The Area Marketing Manager,
   Air India, NACIL, Haka Bhavan, Saifabad,
   Hyderabad – 16. … Respondents

Appearances:

For the Petitioner : M/s. Ch. Indra Sena Reddy, Advocates

For the Respondent: M/s. K. Srinivasa Murthy & V. Uma Devi, Advocates

AWARD

The Government of India, Ministry of Labour by its order No.L-11012/32/2010-IR(CM-I) dated 7.4.2011 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of NACIL and their workmen. The reference is,

SCHEDULE

"Whether the action of the Management of National Aviation Company of India Ltd., Hyderabad in withdrawing canteen facilities for the Main Booking Office staff at Haka Bhawan, Hyderabad and denying suitable monetary compensation in lieu of canteen facility is justified and legal? To, what relief the workmen are entitled to?"

The reference is numbered in this Tribunal as I.D. No. 19/2011 and notices were issued to the parties concerned and the Petitioner entered appearance. Petitioner filed claim statement and Respondent filed counter statement.

2. Case is fixed for cross examination of WW1. But since last many dates of hearing Petitioner is absent. On 27.3.2023 also Petitioner absent and Respondent was present. Again date was fixed on 12.5.2023 for WW1 cross examination but despite sufficient opportunities granted to Petitioner, he did not adduce evidence in support of his claim. It is noticeable that earlier also, Petitioner's claim was dismissed for non-appearance and it was reopened vide order dated 26.12.2015 and again Petitioner committed same default. It appears that he do not want to prosecute his case and merely prolonging the matter by keeping it pending. His claim statement has not been substantiated by any cogent evidence. As per law, in the absence of cross examination of WW1, chief evidence of the Petitioner in affidavit of WW1 can not be read as evidence. Since the Petitioner's claim is not substantiated by any cogent evidence, a 'No claim ' award is passed. Transmit.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 26th day of July, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 8 अगस्त, 2023

का.आ. 1292.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एविएशन कंपनी ऑफ इंडिया लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, हैदराबाद के पंचाट (**संदर्भ संख्या 10/2011**) को प्रकाशित करती है, जो केन्द्रीय सरकार को **07/08/2023** को प्राप्त हुआ था।

[सं. एल-11012/28/2010-आई.आर (सी.एम. -I)]

मणिकंदन एन, उप निदेशक

New Delhi, the 8th August, 2023

S.O. 1292.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 10/2011*)*** of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **National Aviation Company of India Ltd** and their workmen, received by the Central Government on **07*/08/2023*.**

[No. L-11012/28/2010 – IR (CM-I)]

MANIKANDAN. N , Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 26th day of July, 2023

INDUSTRIAL DISPUTE No. 10/2011

Between:

The Regional Secretary,

Air Corporation Employees Union,

Indian Airlines Limited, Hyderabad -16. ……Petitioner

AND

1. The Executive Director(South), Air India,
   NACIL, Airlines House, Meenambakkam,
   Chennai – 600 017.
2. Station/General Manager (Engg.)
   Air India, NACIL, Begumpet, Hyderabad – 16.

3. Dy. General Manager (Finance),
Air India, NACIL, Begumpet, Hyderabad. … Respondents

Appearances:

For the Petitioner : M/s. Ch. Indra Sena Reddy, Advocates

For the Respondent: M/s. K. Srinivasa Murthy & V. Uma Devi, Advocates

AWARD

The Government of India, Ministry of Labour by its order No.L-11012/30/2010-IR(CM-I) dated 3.8.2012 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of NACIL and their workmen. The reference is,

SCHEDULE

"Whether the action of the Management of National Aviation Company of India Ltd., Hyderabad by deducting one day the wages of Sri G. Raj Kumar and thirty other workmen (list enclosed) is justified and legal? To, what relief the workmen are entitled to?"

The reference is numbered in this Tribunal as I.D. No. 53/2012 and notices were issued to the parties concerned and the Petitioner entered appearance. Petitioner filed claim statement and Respondent filed counter statement.

2. Case is fixed for cross examination of WW1. But since last many dates of hearing Petitioner is absent. On 27.3.2023 also Petitioner absent and Respondent was present. Again date was fixed on 12.5.2023 for WW1 cross examination but despite sufficient opportunities granted to Petitioner, he did not adduce evidence in support of his claim. It is noticeable that earlier also, Petitioner's claim was dismissed for non-appearance and it was reopened vide order dated 26.12.2015 and again Petitioner committed same default. It appears that he do not want to prosecute his case and merely prolonging the matter by keeping it pending. His claim statement has not been substantiated by any cogent evidence. As per law, in the absence of cross examination of WW1, chief evidence of the Petitioner in affidavit of WW1 can not be read as evidence. Since the Petitioner's claim is not substantiated by any cogent evidence, a 'No claim ' award is passed. Transmit.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 26th day of July, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 8 अगस्त, 2023

का.आ. 1293.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एविएशन कंपनी ऑफ इंडिया लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्यागिक अधिकरण** – सह – **श्रम न्यायालय**, हैदराबाद के पंचाट **(संदर्भ संख्या 53/2012)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **07/08/2023** को प्राप्त हुआ था।

[सं. एल.-11012/30/2010-आई.आर (सी.एम. -I]

मणिकंदन एन, उप निदेशक

New Delhi, the 8th August, 2023

S.O. 1293.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 53/2012*)*** of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **National Aviation Company of India Ltd** and their workmen, received by the Central Government on **07*/08/2023.***

[No. L-11012/30/2010 – IR (CM-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 26th day of July, 2023

INDUSTRIAL DISPUTE No. 53/2012

Between:

The Regional Secretary,

Air Corporation Employees Union,

Indian Airlines Limited, Hyderabad -16. ..….Petitioner

AND

1. The Executive Director(South), Air India,
   NACIL, Airlines House, Meenambakkam,
   Chennai – 600 017.
2. Station/General Manager (Engg.)
   Air India, NACIL, Begumpet, Hyderabad – 16.
3. Dy. General Manager (Finance),
   Air India, NACIL, Begumpet, Hyderabad. … Respondents

Appearances:

For the Petitioner : M/s. Ch. Indra Sena Reddy, Advocates

For the Respondent: M/s. K. Srinivasa Murthy & V. Uma Devi, Advocates

AWARD

The Government of India, Ministry of Labour by its order No.L-11012/30/2010-IR(CM-I) dated 3.8.2012 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of NACIL and their workmen. The reference is,

SCHEDULE

"Whether the action of the Management of National Aviation Company of India Ltd., Hyderabad by deducting one day the wages of Sri G. Raj Kumar and thirty other workmen (list enclosed) is justified and legal? To, what relief the workmen are entitled to?"

The reference is numbered in this Tribunal as I.D. No. 53/2012 and notices were issued to the parties concerned and the Petitioner entered appearance. Petitioner filed claim statement and Respondent filed counter statement.

2. Case is fixed for cross examination of WW1. But since last many dates of hearing Petitioner is absent. On 27.3.2023 also Petitioner absent and Respondent was present. Again date was fixed on 12.5.2023 for WW1 cross examination but despite sufficient opportunities granted to Petitioner, he did not adduce evidence in support of his claim. It is noticeable that earlier also, Petitioner's claim was dismissed for non-appearance and it was reopened vide order dated 26.12.2015 and again Petitioner committed same default. It appears that he do not want to prosecute

his case and merely prolonging the matter by keeping it pending. His claim statement has not been substantiated by any cogent evidence. As per law, in the absence of cross examination of WW1, chief evidence of the Petitioner in affidavit of WW1 can not be read as evidence. Since the Petitioner's claim is not substantiated by any cogent evidence, a 'No claim ' award is passed. Transmit.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 26th day of July, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 8 अगस्त, 2023

का.आ. 1294.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एविएशन कंपनी ऑफ इंडिया लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, हैदराबाद के पंचाट **(संदर्भ संख्या 11/2011)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **07/08/2023** को प्राप्त हुआ था।

[सं. एल.-11012/27/2010-आई.आर (सी.एम. -I]

मणिकंदन एन, उप निदेशक

New Delhi, the 8th August, 2023

S.O. 1294.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 11/2011*)*** of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **National Aviation Company of India Ltd** and their workmen, received by the Central Government on **07*/08/2023.***

[No. L-11012/27/2010 – IR (CM-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 26th day of July, 2023

INDUSTRIAL DISPUTE No. 11/2011

Between:

The Regional Secretary,

Air Corporation Employees Union,

Indian Airlines Limited, Hyderabad -16. .....Petitioner

AND

1. The Executive Director(South), Air India,
   NACIL, Airlines House, Meenambakkam,
   Chennai – 600 017.
2. The Area Marketing Manager,
   Air India, NACIL, Haka Bhavan, Saifabad,
   Hyderabad – 16.
3. Dy. General Manager (Finance),
   Air India, NACIL, Hyderabad-16. … Respondents

Appearances:

For the Petitioner : M/s. Ch. Indra Sena Reddy, Advocates

For the Respondent: M/s. K. Srinivasa Murthy & V. Uma Devi, Advocates

AWARD

The Government of India, Ministry of Labour by its order No.L-11012/27/2010-IR(CM-I) dated 28.3.2011 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of NACIL and their workmen. The reference is,

SCHEDULE

"Whether the action of the Management of National Aviation Company of India Ltd., Hyderabad by deducting the wages of Ms. Sujitha Mathur and twenty other workmen is justified and legal? To, what relief the workmen are entitled to?"

The reference is numbered in this Tribunal as I.D. No. 11/2011 and notices were issued to the parties concerned and the Petitioner entered appearance. Petitioner filed claim statement and Respondent filed counter statement.

2. Case is fixed for cross examination of WW1. But since last many dates of hearing Petitioner is absent. On 27.3.2023 also Petitioner absent and Respondent was present. Again date was fixed on 12.5.2023 for WW1 cross examination but despite sufficient opportunities granted to Petitioner, he did not adduce evidence in support of his claim. It is noticeable that earlier also, Petitioner's claim was dismissed for non-appearance and it was reopened vide order dated 26.12.2015 and again Petitioner committed same default. It appears that he do not want to prosecute his case and merely prolonging the matter by keeping it pending. His claim statement has not been substantiated by any cogent evidence. As per law, in the absence of cross examination of WW1, chief evidence of the Petitioner in affidavit of WW1 can not be read as evidence. Since the Petitioner's claim is not substantiated by any cogent evidence, a 'No claim ' award is passed. Transmit.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 26th day of July, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 8 अगस्त, 2023

का.आ. 1295.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एविएशन कंपनी ऑफ इंडिया लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, हैदराबाद के पंचाट **(संदर्भ संख्या 12/2011)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **07/08/2023** को प्राप्त हुआ था।

[सं. एल-11012/24/2010-आई.आर (सी.एम. -I]

मणिकंदन एन, उप निदेशक

New Delhi, the 8th August, 2023

S.O. 1295.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 12/2011*)*** of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **National Aviation Company of India Ltd** and their workmen, received by the Central Government on **07*/08/2023***

[No. L-11012/24/2010 – IR (CM-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 26th day of July, 2023

INDUSTRIAL DISPUTE No. 12/2011

Between:

The Regional Secretary,
Air Corporation Employees Union,
Indian Airlines Limited, Hyderabad -16. .....Petitioner

AND

1. The Executive Director(South), Air India,
   NACIL, Airlines House, Meenambakkam,
   Chennai – 600 017.
2. The Chief Manager (Personnel),
   NACIL, Begumpet,
   Hyderabad – 16. … Respondents

Appearances:

For the Petitioner : M/s. Ch. Indra Sena Reddy, Advocates

For the Respondent: M/s. K. Srinivasa Murthy & V. Uma Devi, Advocates

AWARD

The Government of India, Ministry of Labour by its order No.L-11012/24/2010-IR(CM-I) dated 28.3.2011 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of NACIL and their workman. The reference is,

SCHEDULE

"Whether the action of the Management of National Aviation Company of India Ltd., Hyderabad by not granting promotion to Shri Ch. Raman Reddy, Senior Helper (Commercial), NACIL, Hyderabad (Employee No.643693) with effect from 1.10.2008 is justified and legal? To, what relief the workman is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 12/2011 and notices were issued to the parties concerned and the Petitioner entered appearance. Petitioner filed claim statement and Respondent filed counter statement.

2. Case is fixed for cross examination of WW1. But since last many dates of hearing Petitioner is absent. On 27.3.2023 also Petitioner absent and Respondent was present. Again date was fixed on 12.5.2023 for WW1 cross examination but despite sufficient opportunities granted to Petitioner, he did not adduce evidence in support of his claim. It is noticeable that earlier also, Petitioner's claim was dismissed for non-appearance and it was reopened vide order dated 26.12.2015 and again Petitioner committed same default. It appears that he do not want to prosecute his case and merely prolonging the matter by keeping it pending. His claim statement has not been substantiated by any cogent evidence. As per law, in the absence of cross examination of WW1, chief evidence of the Petitioner in affidavit of WW1 can not be read as evidence. Since the Petitioner's claim is not substantiated by any cogent evidence, a 'No claim ' award is passed. Transmit.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 26th day of July, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

नई दिल्ली, 8 अगस्त, 2023

का.आ. 1296.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एविएशन कंपनी ऑफ इंडिया लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, हैदराबाद के पंचाट **(संदर्भ संख्या 13/2011)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **07/08/2023** को प्राप्त हुआ था।

[सं. एल.-11012/26/2010-आई.आर (सी.एम. -I]

मणिकंदन एन, उप निदेशक

New Delhi, the 8th August, 2023

S.O. 1296.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 13/2011*)*** of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **National Aviation Company of India Ltd** and their workmen, received by the Central Government on **07*/08/2023.***

[No. L-11012/26/2010 – IR (CM-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 26th day of July, 2023

INDUSTRIAL DISPUTE No. 13/2011

Between:

The Regional Secretary,

Air Corporation Employees Union,

Indian Airlines Limited, Hyderabad -16. ……Petitioner

AND

1. The Executive Director(South), Air India,
   NACIL, Airlines House, Meenambakkam,
   Chennai – 600 017.
2. The Area Marketing Manager,
   Air India, NACIL, Haka Bhavan, Saifabad,
   Hyderabad – 16. … Respondents

Appearances:

For the Petitioner : M/s. Ch. Indra Sena Reddy, Advocates

For the Respondent: M/s. K. Srinivasa Murthy & V. Uma Devi, Advocates

AWARD

The Government of India, Ministry of Labour by its order No.L-11012/26/2010-IR(CM-I) dated 28.3.2011 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of NACIL and their workmen. The reference is,

SCHEDULE

"Whether the action of the Management of National Aviation Company of India Ltd., Hyderabad by deducting the wages of Tamara Martin and twelve other workmen is justified and legal? To, what relief the workmen are entitled to?"

The reference is numbered in this Tribunal as I.D. No. 13/2011 and notices were issued to the parties concerned and the Petitioner entered appearance. Petitioner filed claim statement and Respondent filed counter statement.

2. Case is fixed for cross examination of WW1. But since last many dates of hearing Petitioner is absent. On 27.3.2023 also Petitioner absent and Respondent was present. Again date was fixed on 12.5.2023 for WW1 cross examination but despite sufficient opportunities granted to Petitioner, he did not adduce evidence in support of his claim. It is noticeable that earlier also, Petitioner's claim was dismissed for non-appearance and it was reopened vide order dated 26.12.2015 and again Petitioner committed same default. It appears that he do not want to prosecute his case and merely prolonging the matter by keeping it pending. His claim statement has not been substantiated by any cogent evidence. As per law, in the absence of cross examination of WW1, chief evidence of the Petitioner in affidavit of WW1 can not be read as evidence. Since the Petitioner's claim is not substantiated by any cogent evidence, a 'No claim ' award is passed. Transmit.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 26th day of July, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 10 अगस्त, 2023

का.आ. 1297.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स इम्प्रेशंस सर्विसेज प्राइवेट लिमिटेड; **मंडल रेल प्रबंधक पूर्वोत्तर रेलवे लखनऊ मंडल; मेसर्स आर.एन इंडस्ट्रीज** के प्रबंधतत्र, संबद्ध नियोजकों और **श्रीमती अनीता देवी** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **लखनऊ** के पंचाट (38/2021) प्रकाशित करती है।

[सं. एल.-12025/01/2023-आई.आर. (बी –I)-67]

सलोनी, उप निदेशक

New Delhi, the 10th August, 2023

S.O. 1297.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 38/2021*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow* as shown in the Annexure, in the industrial dispute between the management of Prathama M/s Impressions Services Private Limited; Mandal Rail Prabandhak Purvotter Railway Lucknow Mandal; M/s R.N. Industries and Smt Anita Devi.

[No. L-12025/01/2023– IR (B-1)-67]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 38/2021

BETWEEN

Smt. Anita Devi wife of Sri Lakshaman, R/o village Phulvariya, Gulriha Gorakhpur (U.P.)- 273013

AND

1. General Manager, M/s Impressions Services Private Limited through W.Z.8/7 First Floor Kirtinagar New Delhi-110015.
2. Mandal Rail Prabhandhak Purvotter Railway Lucknow Mandal, Ashok Marg Lucknow- 226001.
3. Sh. Abhishek Kumar Mishra Prop. M/s R.N. Industries Shop No. 80 Apnandani Transport Corporation New T.P. Nagar, Gorakhpur- 273016.

AWARD

On 05.04.2021 claimant filed the present case before this Tribunal under section 2-A(2) of the Industrial Dispute Act 1947 (hereinafter referred as Act).

Facts in brief:-

The facts as taken by claimant in her claim petition are that she was engaged on the post of Safai Karamchari through opposite party no.3 as contractual employee for doing cleaning work at Gorakhpur Railway Station.

It is further submitted in the claim petition that for discharging the duties she was paid salary at the rate of 7500/- per month.

Respondent No. 2 had entered into agreement thereby giving contract to respondent no.3 for clearing work for the period 31.10.2018 to 30.10.2018, however her services were terminated/disengaged from 14th 2019 without following the provisions as provided under section 25-A, 25-B, 25-D and 25-F of the Act.

Accordingly prayer has been made that oral order of termination/disengagement of her services dated 14th August 2019 may be set aside and respondent be directed to take back into services with all consequential effect.

On behalf of Respondent No. 2 (Mandal Rail Prabhandhak Purvotter Railway Lucknow Mandal, Ashok Marg Lucknow- 226001). Preliminary objection has been filed taking the plea that claimant was not engaged by respondent no. 2 so no question arises whatsoever to disengaged/terminated her services.

I have heard learned counsel for the parties and have gone through the record.

Today the matter is taken up neither the workman/claimant nor his authorize/Representative Mohammad Khalid is present.

On behalf of respondent no. 2 Sri Rahul Nigam on behalf of respondent no. 3 Sri Arvind Mishra are present.

From the perusal of record the position is emerged out that after filing of the statement of claim on 05.08.2021 supported by an affidavit and the preliminary objection filed on 22.10.2021 in spite of time granted to the claimant neither any reply to the preliminary objection nor any rejoinder has been filed.

On the last date i.e.09.02.2023 an order was passed the relevant portion of the same is quoted here in below.

"In spite of the last opportunity documentary evidence on behalf of appellant is not filed. Accordingly to file evidence on behalf of workman is closed list on 02.05.2023 for ex-parte hearing".

Taking into consideration, the above said facts as well as the fact that no oral/documentary evidence has been filed on behalf of the claimant to support his claim, as such, so adjudication case is liable to be dismissed.

Because, Hon'ble High Court in the case of ***V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194*** as under:

"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."

In the case of ***M/s UptronPowertronics Employees' Union, iabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others2008 (118) FLR 1164*** Hon'ble Allahabad High Court has held as under:

The law has been settled by the Apex Court in case of ShankerChakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."

Hon'ble Allahabad High Court in the case of ***District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519*** has held as under:

"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."

For the foregoing reasons, the case is dismissed.

And the workman is not entitled for any relief.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 10 अगस्त, 2023

का.आ. 1298.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **मेसर्स इम्प्रेशंस सर्विसेज प्राइवेट लिमिटेड; मंडल रेल प्रबंधक पूर्वोत्तर रेलवे लखनऊ मंडल; मेसर्स आर.एन. इंडस्ट्रीज** के प्रबंधतत्र, संबद्ध नियोजकों और **श्रीमती आरती देवी** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **लखनऊ** के पंचाट (39/2021) प्रकाशित करती है।

[सं. एल.-12025/01/2023-आई.आर. (बी –I)-70]

सलोनी, उप निदेशक

New Delhi, the 10th August, 2023

S.O. 1298.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 39/2021*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow* as shown in the Annexure, in the industrial dispute between the management of Prathama M/s Impressions Services Private Limited; Mandal Rail Prabandhak Purvotter Railway Lucknow Mandal; M/s R.N. Industries and Smt. Arti Devi.

[No. L-12025/01/2023–IR (B-I)-70]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 39/2021

BETWEEN

Smt. Arti Devi wife of Sri Lal Mohan, R/o 116 Jangal Ekla No.2 Vichala Tola, Gulriya, Gorakhpur (U.P.)- 273013

AND

1. General Manager, M/s Impressions Services Private Limited through W.Z.8/7 First Floor
   Kirtinagar New Delhi-110015.
2. Mandal Rail Prabhandhak
   Purvotter Railway Lucknow Mandal, Ashok Marg Lucknow- 226001.
3. Sh. Abhishek Kumar Mishra Prop. M/s R.N. Industries Shop No. 80 Apnandani Transport Corporation New T.P. Nagar, Gorakhpur- 273016.

AWARD

On 05.04.2021 claimant filed the present case before this Tribunal under section 2-A(2) of the Industrial Dispute Act 1947 (hereinafter referred as Act).

Facts in brief:-

The facts were taken by claimant in her claim petition are that she was engaged on the post of Safai Karamchari through opposite party no.3 as contractual employee for doing cleaning work at Gorakhpur Railway Station.

It is further submitted in the claim petition that for discharging the duties she was paid salary at the rate of 570/- per month.

Respondent No. 2 had entered into agreement thereby giving contract to respondent no.3 for clearing work for the period 31.10.2018 to 30.10.2018, however her services were terminated/disengaged from 14th 2019 without following the provisions as provided under section 25-A, 25-B, 25-D and 25-F of the Act.

Accordingly prayer has been made that oral order of termination/disengagement of her services dated 14th August 2019 may be set aside and respondent be directed to take back into services with all consequential effect.

On behalf of Respondent No. 2 (Mandal Rail Prabhandhak Purvotter Railway Lucknow Mandal, Ashok Marg Lucknow- 226001). Preliminary objection has been filed taking the plea that claimant was not engaged by respondent no. 2 so no question arises whatsoever to disengaged/terminated her services.

I have heard learned counsel for the parties and have gone through the record.

Today the matter is taken up neither the workman/claimant nor his authorize/Representative Mohammad Khalid is present.

On behalf of respondent no. 2 Sri Rahul Nigam on behalf of respondent no. 3 Sri Arvind Mishra are present.

From the perusal of record the position is emerged out that after filing of the statement of claim on 05.08.2021 supported by an affidavit and the preliminary objection filed on 22.10.2021 in spite of time granted to the claimant neither any reply to the preliminary objection nor any rejoinder has been filed.

On the last date i.e.09.02.2023 an order was passed the relevant portion of the same is quoted here in below.

> *"In spite of the last opportunity documentary evidence on behalf of appellant is not filed. Accordingly to file evidence on behalf of workman is closed list on 02.05.2023 for ex-parte hearing".*

Taking into consideration, the above said facts as well as the fact that no oral/documentary evidence has been filed on behalf of the claimant to support his claim, as such, so adjudication case is liable to be dismissed.

Because, Hon'ble High Court in the case of ***V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194*** as under:

> *"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."*

In the case of ***M/s UptronPowertronics Employees' Union, iabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others2008 (118) FLR 1164*** Hon'ble Allahabad High Court has held as under:

> *The law has been settled by the Apex Court in case of ShankerChakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."*

Hon'ble Allahabad High Court in the case of ***District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519*** has held as under:

> *"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."*

For the foregoing reasons, the case is dismissed.

And the workman is not entitled for any relief.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 10 अगस्त, 2023

का.आ. 1299.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स इम्प्रेशंस सर्विसेज प्राइवेट लिमिटेड; मंडल रेल प्रबंधक पूर्वोत्तर रेलवे लखनऊ मंडल; मेसर्स आर.एन. इंडस्ट्रीज के प्रबंधतत्र, संबद्ध नियोजकों और **श्रीमती बसंती देवी** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **लखनऊ** के पंचाट (40/2021) प्रकाशित करती है।

[सं. एल.-12025/01/2023-आई.आर. (बी –I)-66]

सलोनी, उप निदेशक

New Delhi, the 10th August, 2023

S.O. 1299.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 40/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow* as shown in the Annexure, in the industrial dispute between the management of Prathama M/s Impressions Services Private Limited; Mandal Rail Prabandhak Purvotter Railway Lucknow Mandal; M/s R.N. Industries and Smt. Basanti Devi.

[No. L-12025/01/2023– IR (B-1)-66]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 40/2021

BETWEEN

Smt. Basanti Devi wife of Rampat, R/o Koiritola, Janglaurhi, Gorakhpur (U.P.)- 273013

AND

1. General Manager, M/s Impressions Services Private Limited through W.Z.8/7 First Floor, Kirtinagar New Delhi-110015.
2. Mandal Rail Prabhandhak Purvotter Railway Lucknow Mandal, Ashok Marg Lucknow- 226001.
3. Sh. Abhishek Kumar Mishra Prop. M/s R.N. Industries Shop No. 80 Apnandani Transport Corporation New T.P. Nagar, Gorakhpur- 273016.

AWARD

On 05.04.2021 claimant filed the present case before this Tribunal under section 2-A(2) of the Industrial Dispute Act 1947 (hereinafter referred as Act).

Facts in brief:-

The facts as taken by claimant in her claim petition are that she was engaged on the post of Safai Karamchari through opposite party no.3 as contractual employee for doing cleaning work at Gorakhpur Railway Station.

It is further submitted in the claim petition that for discharging the duties she was paid salary at the rate of 7500/- per month.

Respondent No. 2 had entered into agreement thereby giving contract to respondent no.3 for clearing work for the period 31.10.2018 to 30.10.2018, however her services were terminated/disengaged from 14th 2019 without following the provisions as provided under section 25-A, 25-B, 25-D and 25-F of the Act.

Accordingly prayer has been made that oral order of termination/disengagement of her services dated 14th August 2019 may be set aside and respondent be directed to take back into services with all consequential effect.

On behalf of Respondent No. 2 (Mandal Rail Prabhandhak Purvotter Railway Lucknow Mandal, Ashok Marg Lucknow- 226001). Preliminary objection has been filed taking the plea that claimant was not engaged by respondent no. 2 so no question arises whatsoever to disengaged/terminated her services.

I have heard learned counsel for the parties and have gone through the record.

Today the matter is taken up neither the workman/claimant nor his authorize/Representative Mohammad Khalid is present.

On behalf of respondent no. 2 Sri Rahul Nigam on behalf of respondent no. 3 Sri Arvind Mishra are present.

From the perusal of record the position is emerged out that after filing of the statement of claim on 05.08.2021 supported by an affidavit and the preliminary objection filed on 22.10.2021 in spite of time granted to the claimant neither any reply to the preliminary objection nor any rejoinder has been filed.

On the last date i.e.09.02.2023 an order was passed the relevant portion of the same is quoted here in below.

> *"In spite of the last opportunity documentary evidence on behalf of appellant is not filed. Accordingly to file evidence on behalf of workman is closed list on 02.05.2023 for ex-parte hearing".*

Taking into consideration, the above said facts as well as the fact that no oral/documentary evidence has been filed on behalf of the claimant to support his claim, as such, so adjudication case is liable to be dismissed.

Because, Hon'ble High Court in the case of ***V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194*** as under:

> *"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."*

In the case of ***M/s UptronPowertronics Employees' Union, iabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others2008 (118) FLR 1164*** Hon'ble Allahabad High Court has held as under:

> *The law has been settled by the Apex Court in case of ShankerChakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."*

Hon'ble Allahabad High Court in the case of ***District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519*** has held as under:

> *"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."*

For the foregoing reasons, the case is dismissed.

And the workman is not entitled for any relief.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 10 अगस्त, 2023

का.आ. 1300.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **मेसर्स इम्प्रेशंस सर्विसेज प्राइवेट लिमिटेड; मंडल रेल प्रबंधक पूर्वोत्तर रेलवे लखनऊ मंडल; मेसर्स आर.एन. इंडस्ट्रीज** के प्रबंधतत्र, संबद्ध नियोजकों और **श्रीमती विन्द्रावती** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **लखनऊ** के पंचाट (41/2021) प्रकाशित करती है।

[सं. एल.-12025/01/2023-आई.आर. (बी –I)-69]

सलोनी, उप निदेशक

New Delhi, the 10th August, 2023

S.O. 1300.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 41/2021*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow* as shown in the Annexure, in the industrial dispute between the management of Prathama M/s Impressions Services Private Limited; Mandal Rail Prabandhak Purvotter Railway Lucknow Mandal; M/s R.N. Industries and Smt. Vindravati

[No. L-12025/01/2023– IR (B-1)-69]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 41/2021

BETWEEN

1. General Manager, M/s Impressions Services Private Limited through W.Z.8/7 First Floor Kirtinagar New Delhi-110015.
2. Mandal Rail Prabhandhak Purvotter Railway Lucknow Mandal, Ashok Marg Lucknow- 226001.
3. Sh. Abhishek Kumar Mishra Prop. M/s R.N. Industries Shop No. 80 Apnandani Transport Corporation New T.P. Nagar, Gorakhpur- 273016.

AWARD

On 05.04.2021 claimant filed the present case before this Tribunal under section 2-A(2) of the Industrial Dispute Act 1947 (hereinafter referred as Act).

Facts in brief:-

The facts as taken by claimant in her claim petition are that she was engaged on the post of Safai Karamchari through opposite party no.3 as contractual employee for doing cleaning work at Gorakhpur Railway Station.

It is further submitted in the claim petition that for discharging the duties she was paid salary at the rate of 7500/- per month.

Respondent No. 2 had entered into agreement thereby giving contract to respondent no.3 for clearing work for the period 31.10.2018 to 30.10.2018, however her services were terminated/disengaged from 14th 2019 without following the provisions as provided under section 25-A, 25-B, 25-D and 25-F of the Act.

Accordingly prayer has been made that oral order of termination/disengagement of her services dated 14th August 2019 may be set aside and respondent be directed to take back into services with all consequential effect.

On behalf of Respondent No. 2 (Mandal Rail Prabhandhak Purvotter Railway Lucknow Mandal, Ashok Marg Lucknow- 226001). Preliminary objection has been filed taking the plea that claimant was not engaged by respondent no. 2 so no question arises whatsoever to disengaged/terminated her services.

I have heard learned counsel for the parties and have gone through the record.

Today the matter is taken up neither the workman/claimant nor his authorize/Representative Mohammad Khalid is present.

On behalf of respondent no. 2 Sri Rahul Nigam on behalf of respondent no. 3 Sri Arvind Mishra are present.

From the perusal of record the position is emerged out that after filing of the statement of claim on 05.08.2021 supported by an affidavit and the preliminary objection filed on 22.10.2021 in spite of time granted to the claimant neither any reply to the preliminary objection nor any rejoinder has been filed.

On the last date i.e.09.02.2023 an order was passed the relevant portion of the same is quoted here in below.

> *"In spite of the last opportunity documentary evidence on behalf of appellant is not filed. Accordingly to file evidence on behalf of workman is closed list on 02.05.2023 for ex-parte hearing".*

Taking into consideration, the above said facts as well as the fact that no oral/documentary evidence has been filed on behalf of the claimant to support his claim, as such, so adjudication case is liable to be dismissed.

Because, Hon'ble High Court in the case of ***V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194*** as under:

> *"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by*

the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."

In the case of ***M/s UptronPowertronics Employees' Union, iabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others2008 (118) FLR 1164*** Hon'ble Allahabad High Court has held as under:

The law has been settled by the Apex Court in case of ShankerChakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."

Hon'ble Allahabad High Court in the case of ***District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519*** has held as under:

"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."

For the foregoing reasons, the case is dismissed.

And the workman is not entitled for any relief.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 10 अगस्त, 2023

का.आ. 1301.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स इम्प्रेशंस सर्विसेज प्राइवेट लिमिटेड; मंडल रेल प्रबंधक पूर्वोत्तर रेलवे लखनऊ मंडल; मेसर्स आर.एन इंडस्ट्रीज के प्रबंधतत्र, संबद्ध नियोजको और **श्रीमती दुलारी** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **लखनऊ** के पंचाट (42/2021) प्रकाशित करती है।

[सं. एल.-12025/01/2023-आई.आर. (बी –I)-68]

सलोनी, उप निदेशक

New Delhi, the 10th August, 2023

S.O. 1301.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 42/2021*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow* as shown in the Annexure, in the industrial dispute between the management of Prathama M/s Impressions Services Private Limited; Mandal Rail Prabandhak Purvotter Railway Lucknow Mandal; M/s R.N. Industries and Smt. Dulari.

[No. L-12025/01/2023– IR (B-1)-68]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 42/2021

BETWEEN

Smt. Dulari wife of Sri Ramdev, R/o Bagra Deyur Post Barsaina Baghra Daud Kushi Nagar (U.P.)- 274207

AND

1. General Manager, M/s Impressions Services Private Limited through W.Z.8/7 First Floor Kirtinagar New Delhi-110015.
2. Mandal Rail Prabhandhak Purvotter Railway Lucknow Mandal, Ashok Marg Lucknow- 226001.

3. Sh. Abhishek Kumar Mishra Prop. M/s R.N. Industries Shop No. 80 Apnandani Transport Corporation New T.P. Nagar, Gorakhpur- 273016.

AWARD

On 05.04.2021 claimant filed the present case before this Tribunal under section 2-A(2) of the Industrial Dispute Act 1947 (hereinafter referred as Act).

Facts in brief:-

The facts as taken by claimant in her claim petition are that she was engaged on the post of Safai Karamchari through opposite party no.3 as contractual employee for doing cleaning work at Gorakhpur Railway Station.

It is further submitted in the claim petition that for discharging the duties she was paid salary at the rate of 7500/- per month.

Respondent No. 2 had entered into agreement thereby giving contract to respondent no.3 for clearing work for the period 31.10.2018 to 30.10.2018, however her services were terminated/disengaged from 14th 2019 without following the provisions as provided under section 25-A, 25-B, 25-D and 25-F of the Act.

Accordingly prayer has been made that oral order of termination/disengagement of her services dated 14th August 2019 may be set aside and respondent be directed to take back into services with all consequential effect.

On behalf of Respondent No. 2 (Mandal Rail Prabhandhak Purvotter Railway Lucknow Mandal, Ashok Marg Lucknow- 226001). Preliminary objection has been filed taking the plea that claimant was not engaged by respondent no. 2 so no question arises whatsoever to disengaged/terminated her services.

I have heard learned counsel for the parties and have gone through the record.

Today the matter is taken up neither the workman/claimant nor his authorize/Representative Mohammad Khalid is present.

On behalf of respondent no. 2 Sri Rahul Nigam on behalf of respondent no. 3 Sri Arvind Mishra are present.

From the perusal of record the position is emerged out that after filing of the statement of claim on 05.08.2021 supported by an affidavit and the preliminary objection filed on 22.10.2021 in spite of time granted to the claimant neither any reply to the preliminary objection nor any rejoinder has been filed.

On the last date i.e.09.02.2023 an order was passed the relevant portion of the same is quoted here in below.

> *"In spite of the last opportunity documentary evidence on behalf of appellant is not filed. Accordingly to file evidence on behalf of workman is closed list on 02.05.2023 for ex-parte hearing".*

Taking into consideration, the above said facts as well as the fact that no oral/documentary evidence has been filed on behalf of the claimant to support his claim, as such, so adjudication case is liable to be dismissed.

Because, Hon'ble High Court in the case of ***V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194*** as under:

> *"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."*

In the case of ***M/s UptronPowertronics Employees' Union, iabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others2008 (118) FLR 1164*** Hon'ble Allahabad High Court has held as under:

> *The law has been settled by the Apex Court in case of ShankerChakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at*

all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."

Hon'ble Allahabad High Court in the case of ***District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519*** has held as under:

"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."

For the foregoing reasons, the case is dismissed.

And the workman is not entitled for any relief.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 10 अगस्त, 2023

का.आ. 1302.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **मेसर्स इम्प्रेशंस सर्विसेज प्राइवेट लिमिटेड; मंडल रेल प्रबंधक पूर्वोत्तर रेलवे लखनऊ मंडल; मेसर्स आर.एन. इंडस्ट्रीज** के प्रबंधतत्र, संबद्ध नियोजको और **श्रीमती गीता देवी** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **लखनऊ** के पंचाट (43/2021) प्रकाशित करती है।

[सं. एल.-12025/01/2023-आई.आर. (बी –I)-72]

सलोनी, उप निदेशक

New Delhi, the 10th August, 2023

S.O. 1302.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 43/2021*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow* as shown in the Annexure, in the industrial dispute between the management of Prathama M/s Impressions Services Private Limited; Mandal Rail Prabandhak Purvotter Railway Lucknow Mandal; M/s R.N. Industries and Smt. Geeta Devi.

[No. L-12025/01/2023– IR (B-I)-72]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 43/2021

BETWEEN

Smt. Geeta Devi wife of Sri Mahesh Gaud, R/o 176, Humayupur Uttari Gorakhpur (U.P.)- 273015

AND

1. General Manager, M/s Impressions Services Private Limited through W.Z.8/7 First Floor Kirtinagar New Delhi-110015.
2. Mandal Rail Prabhandhak Purvotter Railway Lucknow Mandal, Ashok Marg Lucknow-

3. Sh. Abhishek Kumar Mishra Prop. M/s R.N. Industries Shop No. 80 Apnandani Transport Corporation New T.P. Nagar, Gorakhpur- 273016.

AWARD

On 05.04.2021 claimant filed the present case before this Tribunal under section 2-A(2) of the Industrial Dispute Act 1947 (hereinafter referred as Act).

Facts in brief:-

The facts as taken by claimant in her claim petition are that she was engaged on the post of Safai Karamchari through opposite party no.3 as contractual employee for doing cleaning work at Gorakhpur Railway Station.

It is further submitted in the claim petition that for discharging the duties she was paid salary at the rate of 7500/- per month.

Respondent No. 2 had entered into agreement thereby giving contract to respondent no.3 for clearing work for the period 31.10.2018 to 30.10.2018, however her services were terminated/disengaged from 14th 2019 without following the provisions as provided under section 25-A, 25-B, 25-D and 25-F of the Act.

Accordingly prayer has been made that oral order of termination/disengagement of her services dated 14th August 2019 may be set aside and respondent be directed to take back into services with all consequential effect.

On behalf of Respondent No. 2 (Mandal Rail Prabhandhak Purvotter Railway Lucknow Mandal, Ashok Marg Lucknow- 226001). Preliminary objection has been filed taking the plea that claimant was not engaged by respondent no. 2 so no question arises whatsoever to disengaged/terminated her services.

I have heard learned counsel for the parties and have gone through the record.

Today the matter is taken up neither the workman/claimant nor his authorize/Representative Mohammad Khalid is present.

On behalf of respondent no. 2 Sri Rahul Nigam on behalf of respondent no. 3 Sri Arvind Mishra are present.

From the perusal of record the position is emerged out that after filing of the statement of claim on 05.08.2021 supported by an affidavit and the preliminary objection filed on 22.10.2021 in spite of time granted to the claimant neither any reply to the preliminary objection nor any rejoinder has been filed.

On the last date i.e.09.02.2023 an order was passed the relevant portion of the same is quoted here in below.

> *"In spite of the last opportunity documentary evidence on behalf of appellant is not filed. Accordingly to file evidence on behalf of workman is closed list on 02.05.2023 for ex-parte hearing".*

Taking into consideration, the above said facts as well as the fact that no oral/documentary evidence has been filed on behalf of the claimant to support his claim, as such, so adjudication case is liable to be dismissed.

Because, Hon'ble High Court in the case of ***V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194*** as under:

> *"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."*

In the case of ***M/s UptronPowertronics Employees' Union, iabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others2008 (118) FLR 1164*** Hon'ble Allahabad High Court has held as under:

> *The law has been settled by the Apex Court in case of ShankerChakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."*

Hon'ble Allahabad High Court in the case of ***District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519*** has held as under:

"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."

For the foregoing reasons, the case is dismissed.

SSAnd the workman is not entitled for any relief.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 10 अगस्त, 2023

का.आ. 1303.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **मेसर्स इम्प्रेशंस सर्विसेज प्राइवेट लिमिटेड; मंडल रेल प्रबंधक पूर्वोत्तर रेलवे लखनऊ मंडल; मेसर्स आर.एन. इंडस्ट्रीज** के प्रबंधतत्र, संबद्ध नियोजको और **श्रीमती कमली** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **लखनऊ** के पंचाट (44/2021) प्रकाशित करती है।

[सं. L-12025/01/2023-आई आर (बी-I)-71]

सलोनी, उप निदेशक

New Delhi, the 10th August, 2023

S.O. 1303.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 44/2021*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow* as shown in the Annexure, in the industrial dispute between the management of Prathama M/s Impressions Services Private Limited; Mandal Rail Prabandhak Purvotter Railway Lucknow Mandal; M/s R.N. Industries and Smt. Kamli.

[No. L-12025/01/2023-IR(B-I)-71]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 44/2021

BETWEEN

Smt. Kamli wife of Lallan, R/o Laxmipur Harsewakyapur No. 2 Gorakhpur-273014

AND

1. General Manager, M/s Impressions Services Private Limited through W.Z.8/7 First Floor Kirtinagar New Delhi-110015.
2. Mandal Rail Prabhandhak
   Purvotter Railway Lucknow Mandal, Ashok Marg Lucknow- 226001.
3. Sh. Abhishek Kumar Mishra Prop. M/s R.N. Industries Shop No. 80 Apnandani Transport Corporation New T.P. Nagar, Gorakhpur- 273016.

AWARD

On 05.04.2021 claimant filed the present case before this Tribunal under section 2-A(2) of the Industrial Dispute Act 1947 (hereinafter referred as Act).

Facts in brief:-

The facts as taken by claimant in her claim petition are that she was engaged on the post of Safai Karamchari through opposite party no.3 as contractual employee for doing cleaning work at Gorakhpur Railway Station.

It is further submitted in the claim petition that for discharging the duties she was paid salary at the rate of 7500/- per month.

Respondent No. 2 had entered into agreement thereby giving contract to respondent no.3 for clearing work for the period 31.10.2018 to 30.10.2018, however her services were terminated/disengaged from 14th 2019 without following the provisions as provided under section 25-A, 25-B, 25-D and 25-F of the Act.

Accordingly prayer has been made that oral order of termination/disengagement of her services dated 14th August 2019 may be set aside and respondent be directed to take back into services with all consequential effect.

On behalf of Respondent No. 2 (Mandal Rail Prabhandhak Purvotter Railway Lucknow Mandal, Ashok Marg Lucknow- 226001). Preliminary objection has been filed taking the plea that claimant was not engaged by respondent no. 2 so no question arises whatsoever to disengaged/terminated her services.

I have heard learned counsel for the parties and have gone through the record.

Today the matter is taken up neither the workman/claimant nor his authorize/Representative Mohammad Khalid is present.

On behalf of respondent no. 2 Sri Rahul Nigam on behalf of respondent no. 3 Sri Arvind Mishra are present.

From the perusal of record the position is emerged out that after filing of the statement of claim on 05.08.2021 supported by an affidavit and the preliminary objection filed on 22.10.2021 in spite of time granted to the claimant neither any reply to the preliminary objection nor any rejoinder has been filed.

On the last date i.e.09.02.2023 an order was passed the relevant portion of the same is quoted here in below.

> *"In spite of the last opportunity documentary evidence on behalf of appellant is not filed. Accordingly to file evidence on behalf of workman is closed list on 02.05.2023 for ex-parte hearing".*

Taking into consideration, the above said facts as well as the fact that no oral/documentary evidence has been filed on behalf of the claimant to support his claim, as such, so adjudication case is liable to be dismissed.

Because, Hon'ble High Court in the case of ***V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194*** as under:

> *"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."*

In the case of ***M/s UptronPowertronics Employees' Union, iabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others2008 (118) FLR 1164*** Hon'ble Allahabad High Court has held as under:

> *The law has been settled by the Apex Court in case of ShankerChakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."*

Hon'ble Allahabad High Court in the case of ***District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519*** has held as under:

> *"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."*

For the foregoing reasons, the case is dismissed.

And the workman is not entitled for any relief.

LUCKNOW. Justice ANIL KUMAR, Presiding Officer

09.05.2023.

नई दिल्ली, 11 अगस्त, 2023

का.आ. 1304.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **प्रबंध निदेशक एवं सीईओ, नोकिया सॉल्यूशंस एंड नेटवर्क्स इंडिया प्राइवेट लिमिटेड, बिड़ला सेंचुरियन, वर्ली, मुंबई ; प्रबंध निदेशक एवं सीईओ, वोडाफोन आइडिया लिमिटेड , डीएलएफ साइबर ग्रीन्स, टॉवर ए, छठी मंजिल, डीएलएफ साइबर सिटी, डीएलएफ चरण II, सेक्टर -24, गुरुग्राम,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री प्रवीण कुमार, कामगार,**के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ पंचाट (संदर्भ संख्या 14/2021) को** जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 20/07/2023 को प्राप्त हुआ था।

[सं. एल. 42025/07/2023/169- आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 11th August, 2023

S.O. 1304.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 14/2021**) of the **Central Government Industrial Tribunal cum Labour Court–Lucknow,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Managing Director& CEO, Nokia Solutions and Networks India Private Limited. Birla Centurian,Worli, Mumbai ; The Managing Director & CEO, Vodafone Idea Limited. DLF Cyber Greens, Tower A, 6th Floor, DLF Cyber City, DLF Phase II, Sector-24, Gurugram,** and **Shri Praveen Kumar, Worker,** which was received along with soft copy of the award by the Central Government on 20/07/2023.

[No. L-42025/07/2023/169- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR, PRESIDING OFFICER

I.D. No. 14/2021

Ref. No. K-10/1-13/2020-IR dated 18.01.2021

BETWEEN

Shri Praveen Kumar. (U.P.). (pks1347@rediffmail.com)

AND

1. The Managing Director& CEO, Nokia Solutions and Networks India Private Limited. Birla Centurian, 10th Floor, Plot No.794,B Wing, Pandurang Budhkar Marg, Worli, Mumbai-400030.

2. The Managing Director & CEO, Vodafone Idea Limited. DLF Cyber Greens, Tower A, 6th Floor, DLF Cyber City, DLF Phase II, Sector-24, Gurugram-122002.

AWARD

By order No. K-10/1-13/2020-IR dated 18.01.2021 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

> *"Whether Shri Praveen Kumar, Bss Cluster Lead can be treated as workman ? If so, whether the alleged termination of his services by the management of Nokia Solutions and Networks India Pvt. Ltd./ Vodafone Idea Limited is legal & justified? If not, to what relief the concerned workman is entitled to and from which date? "*

Accordingly, an industrial dispute No. 14/2021 has been registered on 28.01.2021.

From the perusal of record, the position which emerge out is that till date the claimant/workman has not filed any statement of claim.

Moreover, as a matter of fact and record, neither workman nor its authorized representative has turned up before this Tribunal nor has filed any statement of claim.

Findings & Conclusion:

Taking into consideration the fact that till date no statement of claim has been filed by the claimant in order to establish his claim as per the reference dated 18.01.2021.

So in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of ***V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194*** as under:

> *"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."*

In the case of ***M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164*** Hon'ble Allahabad High Court has held as under:

> *"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."*

And by the Hon'ble Allahabad High Court in the case of ***District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519****;* wherein it has been held as under:

> *"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."*

As the workman has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

Award as above.

Lucknow.

15th May, 2023

Let two copies of this award be sent to the Ministry for publication.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 11 अगस्त, 2023

का.आ. 1305.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स हिंदुस्तान एंटीबायोटिक्स लिमिटेड बी-61, सेक्टर-एच अलीगंज, लखनऊ,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री इंद्रपाल सिंह, कामगार,**के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ पंचाट (संदर्भ संख्या 22/2018) को** जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 20/07/2023 को प्राप्त हुआ था।

[सं. एल-42025/07/2023/167- आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 11th August, 2023

S.O. 1305.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 22/2018**) of the **Central Government Industrial Tribunal cum Labour Court–Lucknow,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Hindustan Antibiotics Ltd.B-61, Sector- H Aliganj, Lucknow,** and **Shri Inderpal Singh, Worker,** which was received along with soft copy of the award by the Central Government on 20/07/2023.

[No. L- L- 42025/07/2023/167- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL-CUM-LABOUR COURT, LUCKNOW

I.D. Case No. 22/2018

Sri Inderpal Singh S/o Sri Ramcharan Yadav C/o Rakesh Mani, 529 K/1033, Panth Nagar, Khuram Nagar, Lucknow

…… Applicant

VERSUS

M/s Hindustan Antibiotics Ltd.

B-61, Sector- H Aliganj,

Lucknow **……. Opp. Party.**

Facts in facts

On behalf of the claimant on 09.06.2008 present claim petition has been filed under section 2-A(1) read with section 2-A(2) of the Industrial Dispute Act, 1947.

Facts in brief as taken by workman in the claim petition are that on 03.02.2007 he was engaged on the post of Helper Mali in the Institution Lucknow, M/s Hindustan Antibiotics Ltd. Lucknow/ employer.

On 07.08.1995 the service of workman was retrenched without following the provisions of Section 25(F) of Industrial Dispute Act, 1947 (hereinafter referred as Act) read with Sub Section 6A and Section 6Q of the Act.

Accordingly a prayer has been made by workman that order of retrenchment may be set aside and he may be taken back in service with back wages.

On behalf of respondent written statement supported by affidavit was filed on 18th February 2021 in the written statement following preliminary objection has been taken as under:-

(a) *"Because the present matter of dispute does not constitute a valid industrial dispute as the dispute has not been legally and properly transformed into a valid 'industrial dispute'.*

(b) *Because the present claim application moved u/s -2A of the Industrial dispute Act, 1947 is not maintainable as the claim application of the applicant is time barred.*

(c) *Because Section 2-A of the Industrial Dispute Act, 1947 states as under:-*

"Section 2-A

(1) ……..

(2) ……..

(3) The application referred to in sub-Section (2) shall be made to the Labour Court or Tribunal ***before expiry of 3 years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).***

(d) *Because the above provisions clearly direct that the claim application can be moved directly u/s 2A if he same is moved within a period of 3 years from the date of discharge, dismissal, retrenchment or otherwise termination of services.*

(e) *Because here it is relevant to state that the claim application preferred by the applicant Mr. Indra Pal Singh is dated 09.06.2018 wherein para-6 of the claim statement Mr. Indra pal Singh is stating his services has been terminated on 07.08.1995 which clearly proved that the present matter of dispute has not been raised within a period of 3 years as required in u/s 2-A of the Industrial Dispute Act, 1947"*

Matter taken in the revise list none for workman Sri Raje Bhasin Advocate for respondent.

It is relevant to mention by an order dated 23.01.2023 it is ordered that in spite of last opportunity vide order dated 03.11.2022 rejoinder is not filed; accordingly opportunity to file rejoinder is closed.

List on 30.03.2023 for ex-parte hearing. Notice be issued to workman.

Lastly the case was listed on 06.06.2023, none appeared on behalf of workman, accordingly counsel for respondent was heard.

Sri Raje Bhasin learned counsel for respondent and argued placed reliance on the preliminary objection as taken by the respondent quoted hereinabove and submits that in view of the same the present claim petition filed by claimant/workman liable to be dismissed.

I have heard the learned counsel for respondent and gone through the record.

Before deciding the same it will be appropriate to go through aims and objects of Industrial Dispute Act, 1947 in brief which are that Industrial Disputes Bill was introduced by the Government of India in the Legislative Assembly on the 28th October 1946. After the Select Committee's report on 3rd February 1947, with some amendments, it was passed in March 1947 and became the law from Ist April 1947 repealing the Trade Disputes Act 1929.

While retaining most of the provisions of the earlier law, this Act introduced two new institutions for the prevention and settlement of industrial disputes; works committees consisting of representatives of employers and workers; and machinery for industrial adjudication.

A reference to an industrial tribunal under this Act lies where both parties to any industrial dispute apply for such reference, and also where the appropriate Government considers it expedient so to do. An award of a tribunal has normally to be enforced by the Government and is binding on both parties to the dispute for such periods as may be specified, upto a maximum of one year. This Act seeks to give a new orientation to the entire conciliation machinery.

Another important new feature of the Act is the prohibition of strikes and lockouts during the pendency of conciliation and adjudication proceedings of settlements reached in the course of conciliation proceedings and of awards of industrial tribunals declared binding by the appropriate government.

Rules, orders or notifications requiring the larger industrial establishments to set up works committees were issued by the Government of India and most of the State Governments.

Objectives: General

The objectives of industrial relations and industrial disputes legislation, may be outlined as under:-

(i) Industrial Peace: For prosperity of industry, it is necessary that there be a continuous and growing production which is only possible if (a) there are no interruptions and stoppages in production i.e. absence of disputes, and (b) if the various agencies of production are satisfied and are in a harmonious bent to work. In other words, industrial peace is very necessary for the vitality of industry.

(ii) Economic Justice: All interruptions in production arising out of industrial dispute are really caused by the dissatisfaction of labour with their existing economic condition. The history of labour struggle is nothing but a continuous demand for fair return to labour expressed in varied forms e.g. (a) increase in wages, (b) resistance to decrease in wages, (c) grant of allowances and benefits etc.(***Hariprasad Vs. A.D.Divelkar, AIR 1957 SC 121***)

Social and economic justice which is the bedrock of our Constitution and economic organization also requires that any industrial relations or disputes legislation, to be effective remedial statute, must embrace not only law for regulation of labour relations with capital, process for channelizing collective bargaining methods for negotiation, mediation, conciliation and settlements of industrial conflict, but also a system for giving fair play and justice to labour and removal of economic injustice.

The preamble of the Act states that its main object is to make provision for investigation and settlement of industrial disputes. Viewed in the above background, the Industrial Disputes Act 1947 is a progressive piece of social legislation and is designed to settle the disputes on a new pattern known under the Act as adjudication machinery. The object of all labour legislation is to ensure fair wages and to prevent disputes so that production might not be adversely affected. (***Banaras Ice Factory Ltd. Vs. Its Workmen, AIR 1957 SC 167***)

The purpose of the Act is to provide machinery for a just and equitable settlement by adjudication, (***G. Claridge and Company Ltd. Vs. Industrial Tribunal, Bombay, AIR 1951 Bombay 100***) and amelioration of the conditions of workmen in industry.

Individual and collective industrial disputes: Individual as well as collective disputes may ripen into industrial disputes. The true nature of an individual dispute is that it is a collective dispute. Though a dispute may at the inception be initiated by an individual, yet if it is taken up by the fellow-workers or a union, or a sufficient number of workers, it may assume the collective character and would become an industrial dispute. (**Standard Vacum Oil Co. Errakulam Vs. I.Tribunal, Errakulam 1952-II LLJ 612**). A dispute which continues to retain its individual character cannot be regarded as an industrial dispute. This being the basic law, it is within the competence of the legislature to widen or narrow the coverage of an industrial dispute. The Industrial Disputes Act has also been amended to cover some individual disputes. It is not necessary that a majority should take an industrial dispute. It is sufficient if a substantial group of workmen take it up. When thus taken, it becomes an industrial or collective dispute.

Individual dispute an industrial dispute: The important amongst the above are however the amendments of 1965. By the Act of 1965, a new Section 2A has been added in Act whereby specified categories of individual disputes are also deemed to be industrial disputes. The section reads as under:

> "*2A. Dismissal, etc of an individual workman to be deemed to be industrial dispute-*
>
> Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute."

This amendment revives, impediment in the way of workman with the necessity that to make an industrial dispute it must be taken up or espoused by substantial section of the workmen or any union of those workmen and gives an individual workman a remedy for security of his service and indirectly freedom to join or not to join any union. Thus, individual disputes could be referred to Tribunal as per Section 2A after 1.12.1965. (**National Productivity Council, 1969-II LLJ 186**).

Thereafter, by Industrial Disputes (Amendment) Act 2010 (Act No. 24 of 2010), Section 2A(a), was renumbered as Sub-section (1) and by the same Act i.e. Act No.24 of 2010 Sub-section (2) and Sub-section (3) have been inserted after Section 2A (1) of Industrial Dispute Act 1947 which came into effect w.e.f. 15.09.2010, which reads as under:

> *"2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute -*
>
> *"(1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or*

termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.

(2) Notwithstanding anything contained in Section 10, any such workman as is specified in sub-Section(1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-Section(2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section(1)."

Now the core question to be considered is that in view of the facts which are stated hereinabove, that admittedly the services of applicant was terminated on 07.09.1995, thereafter he has filed the present case before this Tribunal u/s 2A of the Act on 09.06.2008 on the grounds as taken by him in his claim petition, is maintainable or barred by the period of limitation as provided u/s 2A(3) of the Act.

Answer to the said question find place in the judgment passed by Hon'ble the Karnataka High Court in ***ITC Infotech India Ltd. vs. Venkataramana Uppada ILR 2016 Karnataka 3041***, relevant potion quoted as under:

"19. Keeping the above principles in mind, a reading of Section 2A(3) would lead to an irresistible conclusion that time stipulated for invoking the jurisdiction of the Labour Court or the Tribunal as the case may be, has to be necessarily "before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section (1)." Time limit for making an application to the Labour Court stipulated in sub-Section (3) of Section 2A does not appear to have a bearing to the provisions of sub-Section (2) of Section 2A. In any event right conferred under Section 2A would lapse immediately preceding the date of expiry of three years from the date of dismissal, discharge etc.,. In other words, the limitation of three years prescribed under sub-Section (3) of Section 2A being mandatory, same cannot be condoned by taking recourse to Section 5 of the Limitation Act, 1963 which has no application to the provisions of Industrial Disputes Act, 1947.

20. It is well settled principle that if an act is required to be performed within a specified time, the same would primarily be mandatory. It has been held in the case of NAZIRUDDIN VS SITARAM AGARWAL reported in AIR 2003 SCW 908 to the following effect:

> *"The Courts jurisdiction to interpret a statute can be invoked when the same is ambiguous. It is well known that in a given case, the Court can iron out the fabric but it cannot change the texture of the fabric. It cannot enlarge the scope of legislation or intention when the language of provision is plain and unambiguous. It cannot add or subtract the words to a statute or read something into it which is not there. It cannot re-write or recast legislation. It is also necessary to determine that there exists a presumption that the legislature has not used any superfluous words. It is well settled that the real intention of legislature must be gathered from the language used."*

21. Thus, in the background of the dicta of the Apex Court in NAZIRUDDIN's case referred to supra, when Section 2A is perused, it would indicate that if the legislature really intended that the period of limitation provided in sub-Section (3) of Section 2A was to be construed as directory, then it would not have prescribed the limitation of three years and it would have used the words "at any time" instead of using the words "before the expiry of three years". Though the words at any time' is found in Section 10(1), same is conspicuously absent in sub-Section(3) of Section 2A which would clearly depict the intention of the legislature namely, it had deliberately imposed limitation period under sub-Section (3) of Section 2A and as such legislature did not employ the words at any time' in the said provision as found in Section 10(1) and in its place, it has specifically incorporated the words before the expiry of three years'. Hence, to interpret the period of limitation found in sub-Section (3) of Section 2A as directory and not mandatory would amount to adding something which is not provided in the provision by the legislature or it would amount to doing violence to the provision, if such interpretation is sought to be made."

And Hon'ble Rajasthan High court in the case of ***Pankaj Swami vs. Rajasthan State Road Transport Corporation & ors. MANU/RH/1788/2019*** after taking into consideration the provisions of sedation 2A(2) & 2A(3) of the Act held as under:

> *"The provisions are explicit, wherein the workman can approach the Labour Court for adjudication of the dispute in case of discharge, dismissal, retrenchment etc., however, sub-section (3) provides that the application should be made to the Labour Court before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified.*
>
> *8. The submission made by learned Counsel for the petitioner that as the cause of action arose to the petitioner prior to introduction of the provision of limitation by sub-section (3) the same would have no application is concerned, the submission made is fallacious, inasmuch as, the provision under which the application has been filed by the petitioner i.e. section 2-A(2) of the Act, itself was introduced by the amendment Act of 2010 alongwith the limitation therein and therefore, the provision of limitation which was introduced in the year 2010 alongwith the main provision providing for the limitation would apply with all force and the submission that the same would have no application to the cause of action, which arose prior to 2007, has no basis.*
>
> *The submissions as made, if accepted, would result in circumstances where if the cause of action has arisen post 2010, the same would be barred, whereas the causes, which arose prior to 2010 like in the year 2007 in the present case and the application is filed after 7 years, the same would never become barred by limitation, such a result is legally untenable.*
>
> *9. The submission made by learned Counsel for the petitioner that as the petitioner had approached the Conciliation Officer and had raised the dispute before him, where there was no limitation and the petitioner approached the Labour Court only as per the directions of the Conciliation Officer the claim could not be rejected by barred by limitation also does not advance the cause of the petitioner, inasmuch as, the petitioner could have taken advantage of the said position, if the Conciliation Officer had sent a failure report to the appropriate Government who in turn had referred the dispute to the Labour Court. Merely because the Conciliation Officer suggested approaching the Labour Court, which suggestion was accepted by the petitioner, cannot be termed as a reference under section 10 of the Act to the Labour Court.*
>
> *10. In view of the above discussion in so far as the rejection of the claim of the petitioner by the Labour Court being barred by limitation is concerned, the same cannot be faulted."*

And in the case of ***Parthasarathy vs. Souther Pins and Products Pvt. Ltd. and Ors. MANU/TN/6691/2020*** Hon'ble the High Court of Madras has held as under:

> *"Inasmuch as the notice of termination of the Petitioner in the present case has been made on 06.10.2014 under Section 2-A(2) of the Act after the said amendment has come into force, the limitation of three years prescribed under Section 2-A(3) of the Act would necessarily apply. As such, there is no infirmity in the decision-making process of the Labour Court in refusing to entertain the application made by the Petitioner has time barred. This view is supported by the decisions of this Court in the following cases:-*
>
> > *(i) ITC Infotech India Ltd. v. Venkataramana Uppada (Order dated 03.03.2016 in W.P. No. 27510 of 2015 passed by the High Court of Karnataka)*
> >
> > *(ii) Management of Ashok Leyland v. Presiding Officer, Labour Court (Order dated 13.04.2016 in W.P. Nos. 9640 and 9641 of 2016 passed by this Court)*
> >
> > *(iii) Ravi Kumar v. Management, Tamil Nadu State Road Transport Corporation (Order dated 11.04.2017 in W.P. (MD) No. 4269 of 2017 passed by the Madurai Bench of this Court)*
> >
> > *(iv) K. Settu v. Assistant Engineer, Tamil Nadu Electricity Board (Order dated 20.09.2019 in W.P. No. 8413 of 2019 passed by this Court)*
>
> *5. A feeble attempt is made on behalf of the Petitioner to suggest that the period of conciliation must be excluded while computing the limitation. It is, no doubt, true that Section 2-A(2) of the Act contemplates such application to be made to the Labour Court after the expiry of 45 days from the date of application to the Conciliation Officer is made. However, it does not require that the conciliation proceedings should have been completed before making that application under Section 2-A(2) of the Act. The words in Section 2-A(3) of the Act are clear enough that the limitation has to be reckoned on the expiry of three years from the date of termination. The Petitioner in the instant case had made the application for conciliation on 12.04.2017 which had also concluded on 27.06.2017, but the Petitioner*

had not approached the Labour Court after 45 days either from 12.04.2017 or even from 27.06.2017. As such, the contentions made on behalf of the Petitioner cannot be countenanced."

(see also Kandasamy Spinning Mills Private Ltd. vs S. Palanisamy and Ors. MANU/RN/6831/2019

Thus, in view of above said fact, combined reading of section 2A (2) and 2A (3) of the Act, the legal position which emerge out is that if a workman is aggrieved by order of discharge, dismissal, retrenchment or otherwise termination, he may approach the Tribunal within a period three years from dated of passing of order.

Taking into consideration, above said facts and positon of law as well that "if law provides a particular thing that all other modes or methods of doing that thing must be deemed to have been prohibited", the said proposition of law is first held in the case of ***Tylor Vs. Tylor (1875) LR 1 ChD 426*** and adopted later by the ***Judicial Committee in Nazir Ahmed Vs. King Emperor AIR 1936 PC 253*** and thereafter by the Hon'ble Supreme Court in a series of judgments including those in ***Rao Shiv Bahadur Singh & another Vs. State of Vindhya Pradesh AIR 1954 SC 322, State of Uttar Pradesh Vs. Singhara Singh AIR 1964 SC 358, Chandra Kishore Jha Vs. Mahavir Prasad 1999 (8) SCC 266, Dhananjaya Reddy Vs. State of Karnataka 2001 (4) SCC 9 and Gujarat Urja Vikas Nigam Ltd. Vs. Essar Power Ltd. 2008 (4) SCC 755***.

In the case of ***Grasim Industries Ltd. Vs. Collector of Customs, Bombay, (2002) 4 SCC 297***, the Hon'ble Supreme Court held as under:-

"No words or expressions used in any statute can be said to be redundant or superfluous. In matters of interpretation one should not concentrate too much on one word and pay too little attention to other words. No provision in the statute and no word in any section can be construed in isolation. Every provision and every word must be looked at generally and in the context in which it is used. It is said that every statute is an edict of the legislature. The elementary principle of interpreting any word while considering a statute is to gather the mens or sententia legis of the legislature. Where the words are clear and there is no obscurity, and there is no ambiguity and the intention of the legislature is clearly conveyed, there is no scope for the Court to take upon itself the task of amending or alternating the statutory provisions. Wherever the language is clear the intention of the legislature is to be gathered from the language used. While doing so what has been said in the statute as also what has not been said has to be noted. The construction which requires for its support addition or substitution of words or which results in rejection of words has to be avoided".

Hon'ble the Apex Court in the case of ***Bhavnagar University Vs. Palitana Sugar Mill (P) Ltd., (2003) 2 SCC 111***, held as under:-

"24. True meaning of a provision of law has to be determined on the basis of what provides by its clear language, with due regard to the scheme of law.

25. Scope of the legislation on the intention of the legislature cannot be enlarged when the language of the provision is plain and unambiguous. In other words statutory enactments must ordinarily be construed according to its plain meaning and no words shall be added, altered or modified unless it is plainly necessary to do so to prevent a provision from being unintelligible, absurd, unreasonable, unworkable or totally irreconcilable with the rest of the statute".

In the case of ***Harshad S. Mehta Vs. State of Maharashtra, (2001) 8 SCC 257***, it has been held as under:-

"There is no doubt that if the words are plain and simple and call for only one construction that construction is to be adopted whatever be its effect".

In the case of ***Union of India Vs. Hansoli Devo (2002) 7 SCC 273***, Hon'ble the Supreme Court observed as under:-

"9.It is a cardinal principle of construction of statute that when language of the statute is plain and unambiguous, then the court must give effect to the words used in the statute and it would not be open to the courts to adopt a hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act."

In the case of ***Patango Kadam Vs. Prithviraj Sayajiro Yadav Deshmukh (2001) 3 SCC 594***, took the view:-

"12. Thus when there is an ambiguity in terms of a provision, one must look at well-settled principles of construction but it is not open to first to create an ambiguity which does not exist and then try to resolve the same by taking recourse to some general principle."

Also, Hon'ble the Supreme Court in the case of ***Popat Bahiru Govardhane & others vs. Special Land Acquisition Officer & another (2013) 10 SCC 765*** has held as under:

"16. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to

the same. The legal maxim dura lex sed lex which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute. "A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation."

(See Martin Burn Ltd. v. Corpn. of Calcutta10, AIR p. 535, para 14 and Rohitash Kumar v. Om Prakash Sharma11.)

Reverting to the facts of the present case the position is emerged out that the appellant was initially engaged on the post of Helper Mali and he was retrenched from service on 07.08.1995 and the present claim petition has been filed by him before this Tribunal on 09.06.2008 so in view of the fact stated herein the same was liable to be dismissed on the ground of limitation as provided under section 2-A(3) of the Act.

For the foregoing reasons filed by workman/claimant is dismissed as barred by period of limitation under section 2-A(3) of the Industrial Dispute Act 1947, with liberty to the claimant/workman to pursue his case before appropriate forum as per law.

Lucknow

Date 16.06.2023

Let two copies of this award be sent to the Ministry for publication.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 11 अगस्त, 2023

का.आ. 1306.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **प्रबंध निदेशक एवं सीईओ, नोकिया सॉल्यूशंस एंड नेटवर्क्स इंडिया प्राइवेट लिमिटेड, बिड़ला सेंचुरियन, वर्ली, मुंबई ; प्रबंध निदेशक एवं सीईओ, वोडाफोन आइडिया लिमिटेड, डीएलएफ साइबर ग्रीन्स, टॉवर ए, छठी मंजिल, डीएलएफ साइबर सिटी, डीएलएफ चरण II, सेक्टर-24, गुरुग्राम,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री अजय सिंह, कामगार,**के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार** औद्योगिक अधिकरण एवं श्रम न्यायालय, **लखनऊ पंचाट(संदर्भ संख्या 13/2021) को** जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 20/07/2023 को प्राप्त हुआ था।

[सं. एल-42025/07/2023/166-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 11th August, 2023

S.O. 1306.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 13/2021**) of the **Central Government Industrial Tribunal cum Labour Court–Lucknow,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Managing Director& CEO, Nokia Solutions and Networks India Private Limited. Birla Centurian,Worli, Mumbai ; The Managing Director & CEO, Vodafone Idea Limited. DLF Cyber Greens, Tower A, 6th Floor, DLF Cyber City, DLF Phase II, Sector-24, Gurugram,** and **Shri Ajay Singh, Worker,** which was received along with soft copy of the award by the Central Government on 20/07/2023.

[No. L-42025/07/2023/166- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR, PRESIDING OFFICER

I.D. No. 13/2021

Ref. No. K-10/1-14/2020-IR dated 18.01.2021

BETWEEN

Shri Ajay Singh (UP) (thakurajaysingh2004@gmail.com)

And

1. The Managing Director& CEO, Nokia Solutions and Networks India Private Limited. Birla Centurian, 10th Floor, Plot No.794,B Wing, Pandurang Budhkar Marg, Worli, Mumbai-400030.

3. The Managing Director & CEO, Vodafone Idea Limited. DLF Cyber Greens, Tower A, 6th Floor, DLF Cyber City, DLF Phase II, Sector-24, Gurugram-122002.

AWARD

By order No. K-10/1-14/2020-IR dated 18.01.2021 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

> *"Whether Shri Ajay Singh, Bss Cluster Lead can be treated as workman ? If so, whether the alleged termination of his services by the management of Nokia Solutions and Networks India Pvt. Ltd./ Vodafone Idea Limited is legal & justified? If not, to what relief the concerned workman is entitled to and from which date? "*

Accordingly, an industrial dispute No. 13/2021 has been registered on 28.01.2021.

From the perusal of record, the position which emerge out is that till date the claimant/workman has not filed any statement of claim.

Moreover, as a matter of fact and record, neither workman nor its authorized representative has turned up before this Tribunal nor has filed any statement of claim.

Findings & Conclusion:

Taking into consideration the fact that till date no statement of claim has been filed by the claimant in order to establish his claim as per the reference dated 18.01.2021.

So in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of ***V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194*** as under:

> *"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."*

In the case of ***M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164*** Hon'ble Allahabad High Court has held as under:

> *"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."*

And by the Hon'ble Allahabad High Court in the case of ***District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519****;* wherein it has been held as under:

> *"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."*

As the workman has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

Award as above.

Lucknow.

15th May, 2023

Let two copies of this award be sent to the Ministry for publication.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 11 अगस्त, 2023

का.आ. 1307.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **स्टेशन निदेशक, नरोरा परमाणु ऊर्जा स्टेशन, नरोरा, बुलन्दशहर, उत्तर प्रदेश,** के प्रबंधतंत्र के संबद्ध नियोजकों और **नरौरा परमाणु विद्युत स्टेशन कर्मचारी संघ, नरौरा, बुलन्दशहर, उत्तर प्रदेश,** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ पंचाट (संदर्भ संख्या 25/2017) को** जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 20/07/2023 को प्राप्त हुआ था।

[सं. एल-42011/74/2017- आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 11th August, 2023

S.O. 1307.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 25/2017**) of the **Central Government Industrial Tribunal cum Labour Court–Lucknow,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Station Director, Narora Atomic Power Station,Narora, Bulandshahr, Uttar Pradesh,** and **Narora Atomic Power Station Employees Association, Narora, Bulandshahr, Uttar Pradesh,** which was received along with soft copy of the award by the Central Government on 20/07/2023.

[No. L-42011/74/2017- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR, PRESIDING OFFICER

I.D. No.25/2017

Ref. No. L-42011/74/2017-IR(DU) dated: 17.07.2017

BETWEEN

Narora Atomic Power Station Employees Association D-22/1, NAPS Township, Narora, Bulandshahr, Uttar Pradesh - 202389

AND

Station Director, Narora Atomic Power Station,

Narora, Bulandshahr, Uttar Pradesh - 202389

AWARD

Facts of the case:

By order No. L-42011/74/2017-IR(DU) dated: 17.07.2017 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

> *"Whether action of management of Narora Atomic Power Station, Narora, Bulandshahr, Uttar Pradesh in refusing to implement the system of food item payment, based on food items consumed by workmen is justified? If not, than what remedies lie with the union."*

Accordingly, an industrial dispute No. 25/2017 was registered before this Tribunal and on 21.08.2017, notices were issued to the parties.

On 10.10.2019 statement of claim has been filed.

On 07.12.2019 written statement has been filed and time was granted to file rejoinder affidavit.

In spite of the time granted to the workman he has not filed rejoinder affidavit, as such, by an order dated 25.02.2020, opportunity to file rejoinder affidavit has been closed.

Further, from perusal of the order sheet it appear that since 25.02.2020 neither workman nor any legal representative appeared on his behalf.

By an order dated 22.04.2022, time granted to the workman to file its evidence was closed and management was directed to file its evidence on affidavit; the same was closed vide order dated 29.09.2022.

Again on 02.12.2022 and order was passed, relevant portion:

> *"Matter taken up in revised list.*
>
> *Parties absent.*
>
> *Opportunity to lead management evidence is closed.*
>
> *List on 03.02.2023 for ex-parte argument. Office is directed to issue notice to parties."*

Thereafter, on 03.02.2023, when the matter was taken up in revised list, neither workman nor any legal representative appeared on his behalf.

Sri B.V. Upadhyay, learned counsel for respondent was present.

Finding and conclusion:

After hearing the learned counsel for respondent and going through the record, admitted positon which come to light is that statement of claim was filed on behalf of workman; and after filing of written statement on behalf of the respondent, the workmen neither filed its rejoinder nor turned up to substantiate his claim through evidence on oath.

So in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of ***V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194*** as under:

> *"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."*

In the case of ***M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164*** Hon'ble Allahabad High Court has held as under:

> *"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at*

all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."

And by the Hon'ble Allahabad High Court in the case of ***District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519;*** wherein it has been held as under:

"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."

As the workman has not filed any oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

Award as above.

Lucknow.

15th June, 2023

Let two copies of this award be sent to the Ministry for publication.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 11 अगस्त, 2023

का.आ. **1308.**—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **प्रबंध निदेशक एवं सीईओ, नोकिया सॉल्यूशंस एंड नेटवर्क्स इंडिया प्राइवेट लिमिटेड, बिड़ला सेंचुरियन, वर्ली, मुंबई ; प्रबंध निदेशक एवं सीईओ, वोडाफोन आइडिया लिमिटेड, डीएलएफ साइबर ग्रीन्स, टॉवर ए, छठी मंजिल, डीएलएफ साइबर सिटी, डीएलएफ चरण II, सेक्टर -24, गुरुग्राम,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री मनीष सिंह, कामगार,** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ पंचाट (संदर्भ संख्या 08/2021) को** जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 20/07/2023 को प्राप्त हुआ था।

[सं. एल-42025/07/2023-165-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 11th August, 2023

S.O. 1308.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 08/2021**) of the **Central Government Industrial Tribunal cum Labour Court–Lucknow,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Managing Director& CEO, Nokia Solutions and Networks India Private Limited. Birla Centurian,Worli, Mumbai; The Managing Director & CEO, Vodafone Idea Limited. DLF Cyber Greens, Tower A, 6th Floor, DLF Cyber City, DLF Phase II, Sector-24, Gurugram,** and **Shri Manish Singh, Worker,** which was received along with soft copy of the award by the Central Government on 20/07/2023.

[No. L-42025/07/2023-165- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR, PRESIDING OFFICER

I.D. No. 08/2021

Ref. No. K-10/1-18/2020-IR dated 18.01.2021

BETWEEN

Sri Manish Singh (UP) (manishvibhu@gmail.com)

AND

1. The Managing Director& CEO, Nokia Solutions and Networks India Private Limited. Birla Centurian, 10th Floor, Plot No.794,B Wing, Pandurang Budhkar Marg, Worli, Mumbai-400030.

2.. The Managing Director & CEO, Vodafone Idea Limited. DLF Cyber Greens, Tower A, 6th Floor, DLF Cyber City, DLF Phase II, Sector-24, Gurugram-122002.

AWARD

By order No. K-10/1-18/2020-IR dated 18.01.2021 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

"Whether Shri Manish Singh, Bss Cluster Lead can be treated as workman ? If so, whether the alleged termination of his services by the management of Nokia Solutions and Networks India Pvt. Ltd./ Vodafone Idea Limited is legal & justified? If not, to what relief the concerned workman is entitled to and from which date?"

Accordingly, an industrial dispute No. 08/2021 has been registered on 28.01.2021.

From the perusal of record, the position which emerge out is that till date the claimant/workman has not filed any statement of claim.

Moreover, as a matter of fact and record, neither workman nor its authorized representative has turned up before this Tribunal nor has filed any statement of claim.

Findings & Conclusion:

Taking into consideration the fact that till date no statement of claim has been filed by the claimant in order to establish his claim as per the reference dated 18.01.2021.

So in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of ***V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194*** as under:

> *"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."*

In the case of ***M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164*** Hon'ble Allahabad High Court has held as under:

> *"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."*

And by the Hon'ble Allahabad High Court in the case of ***District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519****;* wherein it has been held as under:

> *"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."*

As the workman has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

Award as above.

Lucknow.

15th May, 2023

Let two copies of this award be sent to the Ministry for publication.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 11 अगस्त, 2023

का.आ. 1309.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मुख्य परिचालन अधिकारी (यूनिट प्रमुख), इंडो गल्फ फर्टिलाइजर्स जगदीशपुर औद्योगिक क्षेत्र, छत्रपति साहूजी महाराज नगर; वरिष्ठ उपाध्यक्ष (एफ एंड सी), इंडो गल्फ फर्टिलाइजर्स जगदीशपुर औद्योगिक क्षेत्र, छत्रपति साहूजी महाराज नगर; सहायक उपाध्यक्ष (एचआर) इंडो गल्फ फर्टिलाइजर्स जगदीशपुर औद्योगिक क्षेत्र, छत्रपति साहूजी महाराज नगर,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री सरोज कुमार मिश्रा, कामगार,** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ पंचाट (संदर्भ संख्या 66/2012) को** जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 20/07/2023 को प्राप्त हुआ था।

[सं. एल-42025/07/2023-164-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 11th August, 2023

S.O. 1309.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 66/2012**) of the **Central Government Industrial Tribunal cum Labour Court–Lucknow,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Chief Operating Officer (Unit Head), Indo Gulf Fertilisers Jagdishpur Industrial Area, Chhtrapati Sahuji Maharaj Nagar ; The Senior Vice President (F & C), Indo Gulf Fertilizers Jagdishpur Industrial Area, Chhtrapati Sahuji Maharaj Nagar ; The Assistant Vice President (HR) Indo Gulf Fertilizers Jagdishpur Industrial Area, Chhtrapati Sahuji Maharaj Nagar,** and **Shri Saroj Kumar Misra, Worker,** which was received alongwith soft copy of the award by the Central Government on 20/07/2023.

[No. L-42025/07/2023-164- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR, PRESIDING OFFICER

I.D. No. 66/2012

BETWEEN

Saroj Kumar Misra, S/o Late Sri S. S. Misra

R/o 5/343, Viram Khand-V, Gomti Nagar, Lucknow-226 010

Vs.

1. Chief Operating Officer (Unit Head), Indo Gulf Fertilisers

Jagdishpur Industrial Area, Chhtrapati Sahuji Maharaj Nagar

2. Senior Vice President (F & C), Indo Gulf Fertilizers

Jagdishpur Industrial Area, Chhtrapati Sahuji Maharaj Nagar

3. Assistant Vice President (HR) Indo Gulf Fertilizers

Jagdishpur Industrial Area, Chhtrapati Sahuji Maharaj Nagar

AWARD

The present industrial dispute has been filed under sub section (2) of Section 2A of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act) by the claimant before this tribunal for adjudication on 19.07.2012, registered as ID case No. 66/2012.

On behalf of the respondent a preliminary objection has been taken on 15.03.2013 (M-7).

By an order dated 23.08.2013, this Tribunal rejected the preliminary objection taken by the respondent.

Aggrieved by the same the respondent file a Writ Petition No. 7515 (MS) of 2013, which was decided by the Hon'ble High Court, Lucknow vide order dated 23.09.2019, the copy of the same produced before this Tribunal by the workman, operative portion reads as under:

> *"11. Learned counsel for respondent no.3 Sri Lalla Chauhan, on the other hand, has argued on the same lines as have been considered and relied upon by the respondent no.2 in passing the order dated 23.8.2013. He has argued that the definition of "appropriate Government" in relation to any industrial dispute concerning any such controlled industry, as specified in this behalf, by the Central Government, may be read along with Section 2 of the Industries (Development and Regulation) Act, 1951. Under Schedule 1 of the Act of 1951, fertilizers are mentioned at Item no.18. Hence, for an industry, manufacturing fertilizers, the "appropriate Government" is the Central Government. The Fertilizer (Control) Order has also been issued by the Government of India, Ministry of Agriculture and Rural Development. The control of the Central Government over the production and supply of fertilizers would make the Fertilizer Industry a controlled industry and, therefore, amenable to the jurisdiction of CGIT.*
>
> *12. Very much the same argument was raised before the Supreme Court in the cases of Bijay Cotton Mills Limited (supra) and Management of Vishnu Sugar Mills Limited (supra). The Supreme Court has rejected such argument and observed that unless there is a notification of the Central Government with regard to bringing any industry under its control with respect to Industrial Disputes Act, 1947, the same cannot be said to be a controlled industry under the Industrial Disputes Act. The "appropriate Government" would, therefore, not be the Central Government, but only the State Government.*
>
> *13. Since in this case, the respondent no.3 had approached the Regional Labour Commissioner (Central), Lucknow initially and while conciliation proceedings remained pending, he also approached the CGIT directly under the enabling provisions of Section 2(A)(2) of the Act of 1947. the order passed by the respondent no.2 dated 23.8.2013 while it is being set aside by this Court. liberty is granted to the respondent no.3 to approach, either the State Government or the Labour Court-cum-Industrial Tribunal directly by filing a claim petition before it under the enabling provisions of Section 2(A)(2) of the Act. If such a petition is filed, the same shall not be rejected only on the ground of delay and shall be considered on merits, by the appropriate Court."*

Sri Saroj Kumar Mishra, claimant/workman submits that in pursuance to order dated 23.09.2019, passed by the Hon'ble High Court he has already filed a claim petition before the Labour Court under the U.P. Industrial Disputes Act, 1947 and same is pending for adjudication.

I have heard learned counsel for parties and gone through the record, as on the same cause of action, as per the order passed by Hon'ble High Court, in Writ Petition No. 7515 (MS) of 2013, the workman has already filed a case before the U.P. Industrial Tribunal, for redressal of his grievances, admitted by him. So on the same course of action, the present case is not maintainable.

Award as above.

LUCKNOW.

27th June, 2023.

Let two copies of this award be sent to the Ministry for publication.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 11 अगस्त, 2023

का.आ. 1310.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **अध्यक्ष-सह-प्रबंध निदेशक, मेसर्स स्कूटर इंडिया लिमिटेड, सरोजिनी नगर, लखनऊ,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री दिनेश सिंह, कामगार,** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ पंचाट (संदर्भ संख्या 86/2021) को** जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 20/07/2023 को प्राप्त हुआ था।

[सं. एल-42025/07/2023-163-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 11th August, 2023

S.O. 1310.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 86/2021**) of the **Central Government Industrial Tribunal cum Labour Court–Lucknow,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Chairman-cum Managing Director, M/s Scooter India Limited, Sarojini Nagar, Lucknow,** and **Shri Denesh Singh, Worker,** which was received along with soft copy of the award by the Central Government on 20/07/2023.

[No. L-42025/07/2023-163- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR, PRESIDING OFFICER

I.D. No. 86/2021

BETWEEN

Denesh Singh, s/o Late Sri Rajendra Bahadur Singh

R/o Village & Post Thawer, Malihabad, Lucknow

AND

M/s Scooters India Ltd., Sarojini Nagar, Lucknow

Through its Chairman cum Managing Director

AWARD

On 23.08.2021 the claimant/workman has field the ID case No. 86/2021 as per the provisions of Section 2A (2) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act).

Facts of the case:

Facts, in brief, of the present case are claimant, Denesh Singh was initially appointed in establishment, known as Scooters India Limited as Factary Grade 'D' unskilled worker and services number which was allotted to him by the establishment was 04566.

During the tenure his service respondent float a scheme for voluntary retirement. As per the facts of the case (para 4 of the claim petition) workman on 21.12.1993 applied for voluntary retirement w.e.f. 31.03.1994 under the voluntary retirement scheme dated 08.12.1988. It is further submitted by claimant in statement of claim that a circular dated 06.11.1993 was circulated by the establishment stating therein that the voluntary retirement scheme, circulated vide circular dated 08.12.1993 will remain suspended w.e.f. 14.12.1993.

It is also not in dispute that option was given by applicant for voluntary retirement, had been accepted by establishment and he was voluntary retired after giving all consequential benefits.

In view of the above said factual background, the present claim petition has been filed by the claimant u/s 2A (2) of the ID Act, 1947 (hereinafter referred to as the Act) with following prayer:

> *"Wherefore, it is prayed that the illegal Voluntary Retirement of the applicant- workman w.e.f. 21-12-93 is liable to be set aside and the opposite party/employer may kindly be directed to reinstate applicant-workman on the post with all consequential service/salary benefits and pay his arrears of salary within stipulated period with 12% interest, and/or pass such other order or direction, which this Hon'ble Tribunal may deem just and proper in the circumstances of the case."*

Sri Neeraj Sharma, learned counsel for the respondent on the basis of the preliminary objection taken by respondent has submitted that that initially aggrieved by the voluntary retirement, applicant workman and other workmen union to which the present workman and other workmen who are similarly situated workmen approached the Appropriate Authority u/s 10 of the Act for conciliation, accordingly a case was registered before the Regional Labour Commissioner (C), Lucknow File No. LKO.8(2-12)/2020 and vide an order dated 17.02.2021 the same was rejected, relevant portion as under:

> *"After having ceased the matter in conciliation, may dates for joint discussion were fixed so as to arrive at an amicable settlement of the dispute. However, in spite of having conducted prolonged joint discussions with the parties, the settlement could not be reached due to divergent views held by the parties. The parties have also been suggested to refer the matter for arbitration under section 10 A of the Industrial Dispute Act, 1947. The union had agreed, however the management had declined the same.*
>
> *In view of the above the conciliatory* efforts made by me have ended in failure."

Accordingly, he submits that in view of the said facts the present claim petition filed by the workman u/s 2A (2) of the Act is not maintainable, liable to be dismissed.

Sri V.K. Jaiswal, learned counsel for claimant has not disputed the said fact; however, he has submitted that as the voluntary of the applicant is contrary to law so the applicant has rightly approached this Tribunal for redressal of his grievance.

Findings and conclusion:

I have heard learned counsel for parties and gone through record.

Before deciding the same it will be appropriate to go through aims and objects of Industrial Dispute Act, 1947 in brief which are that Industrial Disputes Bill was introduced by the Government of India in the Legislative Assembly on the 28th October 1946. After the Select Committee's report on 3rd February 1947, with some amendments, it was passed in March 1947 and became the law from Ist April 1947 repealing the Trade Disputes Act 1929.

While retaining most of the provisions of the earlier law, this Act introduced two new institutions for the prevention and settlement of industrial disputes; works committees consisting of representatives of employers and workers; and machinery for industrial adjudication.

A reference to an industrial tribunal under this Act lies where both parties to any industrial dispute apply for such reference, and also where the appropriate Government considers it expedient so to do. An award of a tribunal has normally to be enforced by the Government and is binding on both parties to the dispute for such periods as may be specified, upto a maximum of one year. This Act seeks to give a new orientation to the entire conciliation machinery.

Another important new feature of the Act is the prohibition of strikes and lockouts during the pendency of conciliation and adjudication proceedings of settlements reached in the course of conciliation proceedings and of awards of industrial tribunals declared binding by the appropriate government.

Rules, orders or notifications requiring the larger industrial establishments to set up works committees were issued by the Government of India and most of the State Governments.

Objectives: General

The objectives of industrial relations and industrial disputes legislation, may be outlined as under:-

(i) Industrial Peace: For prosperity of industry, it is necessary that there be a continuous and growing production which is only possible if (a) there are no interruptions and stoppages in production i.e. absence of disputes, and (b) if the various agencies of production are satisfied and are in a harmonious bent to work. In other words, industrial peace is very necessary for the vitality of industry.

(ii) Economic Justice: All interruptions in production arising out of industrial dispute are really caused by the dissatisfaction of labour with their existing economic condition. The history of labour struggle is nothing but a continuous demand for fair return to labour expressed in varied forms e.g. (a) increase in wages, (b) resistance to decrease in wages, (c) grant of allowances and benefits etc.(***Hariprasad Vs. A.D.Divelkar, AIR 1957 SC 121***)

Social and economic justice which is the bedrock of our Constitution and economic organization also requires that any industrial relations or disputes legislation, to be effective remedial statute, must embrace not only law for regulation of labour relations with capital, process for channelizing collective bargaining methods for negotiation, mediation, conciliation and settlements of industrial conflict, but also a system for giving fair play and justice to labour and removal of economic injustice.

The preamble of the Act states that its main object is to make provision for investigation and settlement of industrial disputes. Viewed in the above background, the Industrial Disputes Act 1947 is a progressive piece of social legislation and is designed to settle the disputes on a new pattern known under the Act as adjudication machinery. The object of all labour legislation is to ensure fair wages and to prevent disputes so that production might not be adversely affected. (***Banaras Ice Factory Ltd. Vs. Its Workmen, AIR 1957 SC 167***)

The purpose of the Act is to provide machinery for a just and equitable settlement by adjudication, (***G. Claridge and Company Ltd. Vs. Industrial Tribunal, Bombay, AIR 1951 Bombay 100***) and amelioration of the conditions of workmen in industry.

Individual and collective industrial disputes: Individual as well as collective disputes may ripen into industrial disputes. The true nature of an individual dispute is that it is a collective dispute. Though a dispute may at the inception be initiated by an individual, yet if it is taken up by the fellow-workers or a union, or a sufficient number of workers, it may assume the collective character and would become an industrial dispute. (**Standard Vacum Oil Co. Errakulam Vs. I.Tribunal, Errakulam 1952-II LLJ 612**). A dispute which continues to retain its individual character cannot be regarded as an industrial dispute. This being the basic law, it is within the competence of the legislature to widen or narrow the coverage of an industrial dispute. The Industrial Disputes Act has also been amended to cover some individual disputes. It is not necessary that a majority should take an industrial dispute. It is sufficient if a substantial group of workmen take it up. When thus taken, it becomes an industrial or collective dispute.

Individual dispute an industrial dispute: The important amongst the above are however the amendments of 1965. By the Act of 1965, a new Section 2A has been added in Act whereby specified categories of individual disputes are also deemed to be industrial disputes. The section reads as under:

> "*2A. Dismissal, etc of an individual workman to be deemed to be industrial dispute-*
>
> Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute."

This amendment revives, impediment in the way of workman with the necessity that to make an industrial dispute it must be taken up or espoused by substantial section of the workmen or any union of those workmen and gives an individual workman a remedy for security of his service and indirectly freedom to join or not to join any union. Thus, individual disputes could be referred to Tribunal as per Section 2A after 1.12.1965. (**National Productivity Council, 1969-II LLJ 186**).

Thereafter, Industrial Disputes (Amendment) Act 2010 (Act No. 24 of 2010), Section 2A(a), was renumbered as Sub-section (1) and by the same Act i.e. Act No.24 of 2010 Sub-section (2) and Sub-section (3) have been inserted after Section 2A (1) of Industrial Dispute Act 1947 which came into effect w.e.f. 15.09.2010, which reads as under:

> *"2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute -*
>
> *"(1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.*
>
> *(2) Notwithstanding anything contained in Section 10, any such workman as is specified in sub-Section(1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.*
>
> *(3) The application referred to in sub-Section(2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section(1)."*

Now the core question to be considered is that in view of the facts which are stated hereinabove, when admittedly the was voluntarily retired on 21.12.1993, thereafter he has filed the present case before this Tribunal u/s 2A of the Act on 23.08.2021 on the grounds as taken by him in his claim petition, is maintainable or barred by the period of limitation as provided u/s 2A(3) of the Act.

Answer to the said question find place in the judgment passed by Hon'ble the Karnataka High Court in ***ITC Infotech India Ltd. vs. Venkataramana Uppada ILR 2016 Karnataka 3041***, relevant potion quoted as under:

> *"19. Keeping the above principles in mind, a reading of Section 2A(3) would lead to an irresistible conclusion that time stipulated for invoking the jurisdiction of the Labour Court or the Tribunal as the case may be, has to be necessarily "before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section (1)." Time limit for making an application to the Labour Court stipulated in sub-Section (3) of Section 2A does not appear to have a bearing to the provisions of sub-Section (2) of Section 2A. In any event right conferred under Section 2A would lapse immediately preceding the date of expiry of three years from the date of dismissal, discharge etc.,. In other words, the limitation of three years prescribed under sub-Section (3) of Section 2A being mandatory, same cannot be condoned by taking recourse to Section 5 of the Limitation Act, 1963 which has no application to the provisions of Industrial Disputes Act, 1947.*
>
> *20. It is well settled principle that if an act is required to be performed within a specified time, the same would primarily be mandatory. It has been held in the case of NAZIRUDDIN VS SITARAM AGARWAL reported in AIR 2003 SCW 908 to the following effect:*
>
> > *"The Courts jurisdiction to interpret a statute can be invoked when the same is ambiguous. It is well known that in a given case, the Court can iron out the fabric but it cannot change the texture of the fabric. It cannot enlarge the scope of legislation or intention when the language of provision is plain and unambiguous. It cannot add or subtract the words to a statute or read something into it which is not there. It cannot re-write or recast legislation. It is also necessary to determine that there exists a presumption that the legislature has not used any superfluous words. It is well settled that the real intention of legislature must be gathered from the language used."*
>
> *21. Thus, in the background of the dicta of the Apex Court in NAZIRUDDIN's case referred to supra, when Section 2A is perused, it would indicate that if the legislature really intended that the period of limitation provided in sub-Section (3) of Section 2A was to be construed as directory, then it would not have prescribed the limitation of three years and it would have used the words "at any time" instead of using the words "before the expiry of three years". Though the words at any time' is found in Section 10(1), same is conspicuously absent in sub-Section(3) of Section 2A which would clearly depict the intention of the legislature namely, it had deliberately imposed limitation period under sub-Section (3) of Section 2A and as such legislature did not employ the words at any time' in the said provision as found in Section 10(1) and in its place, it has specifically incorporated the words before the expiry of three years'. Hence, to interpret the period of limitation found in sub-Section (3) of Section 2A as directory and not mandatory would amount to adding something which is not provided in the provision by the legislature or it would amount to doing violence to the provision, if such interpretation is sought to be made."*

Further, Hon'ble Rajasthan High court in the case of ***Pankaj Swami vs. Rajasthan State Road Transport Corporation & ors. MANU/RH/1788/2019*** after taking into consideration the provisions of section 2A(2) & 2A(3) of the Act held as under:

> *"The provisions are explicit, wherein the workman can approach the Labour Court for adjudication of the dispute in case of discharge, dismissal, retrenchment etc., however, sub-section (3) provides that the application should be made to the Labour Court before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified.*
>
> *8. The submission made by learned Counsel for the petitioner that as the cause of action arose to the petitioner prior to introduction of the provision of limitation by sub-section (3) the same would have no application is concerned, the submission made is fallacious, inasmuch as, the provision under which the application has been filed by the petitioner i.e. section 2-A(2) of the Act, itself was introduced by the amendment Act of 2010 alongwith the limitation therein and therefore, the provision of limitation which was introduced in the year 2010 alongwith the main provision providing for the limitation would apply with all force and the submission that the same would have no application to the cause of action, which arose prior to 2007, has no basis.*

The submissions as made, if accepted, would result in circumstances where if the cause of action has arisen post 2010, the same would be barred, whereas the causes, which arose prior to 2010 like in the year 2007 in the present case and the application is filed after 7 years, the same would never become barred by limitation, such a result is legally untenable.

9. The submission made by learned Counsel for the petitioner that as the petitioner had approached the Conciliation Officer and had raised the dispute before him, where there was no limitation and the petitioner approached the Labour Court only as per the directions of the Conciliation Officer the claim could not be rejected by barred by limitation also does not advance the cause of the petitioner, inasmuch as, the petitioner could have taken advantage of the said position, if the Conciliation Officer had sent a failure report to the appropriate Government who in turn had referred the dispute to the Labour Court. Merely because the Conciliation Officer suggested approaching the Labour Court, which suggestion was accepted by the petitioner, cannot be termed as a reference under section 10 of the Act to the Labour Court.

10. In view of the above discussion in so far as the rejection of the claim of the petitioner by the Labour Court being barred by limitation is concerned, the same cannot be faulted."

And in the case of ***Parthasarathy vs. Souther Pins and Products Pvt. Ltd. and Ors. MANU/TN/6691/2020*** Hon'ble the High Court of Madras has held as under:

"Inasmuch as the notice of termination of the Petitioner in the present case has been made on 06.10.2014 under Section 2-A(2) of the Act after the said amendment has come into force, the limitation of three years prescribed under Section 2-A(3) of the Act would necessarily apply. As such, there is no infirmity in the decision-making process of the Labour Court in refusing to entertain the application made by the Petitioner has time barred. This view is supported by the decisions of this Court in the following cases:-

(i) ITC Infotech India Ltd. v. Venkataramana Uppada (Order dated 03.03.2016 in W.P. No. 27510 of 2015 passed by the High Court of Karnataka)

(ii) Management of Ashok Leyland v. Presiding Officer, Labour Court (Order dated 13.04.2016 in W.P. Nos. 9640 and 9641 of 2016 passed by this Court)

(iii) Ravi Kumar v. Management, Tamil Nadu State Road Transport Corporation (Order dated 11.04.2017 in W.P. (MD) No. 4269 of 2017 passed by the Madurai Bench of this Court)

(iv) K. Settu v. Assistant Engineer, Tamil Nadu Electricity Board (Order dated 20.09.2019 in W.P. No. 8413 of 2019 passed by this Court)

5. A feeble attempt is made on behalf of the Petitioner to suggest that the period of conciliation must be excluded while computing the limitation. It is, no doubt, true that Section 2-A(2) of the Act contemplates such application to be made to the Labour Court after the expiry of 45 days from the date of application to the Conciliation Officer is made. However, it does not require that the conciliation proceedings should have been completed before making that application under Section 2-A(2) of the Act. The words in Section 2-A(3) of the Act are clear enough that the limitation has to be reckoned on the expiry of three years from the date of termination. The Petitioner in the instant case had made the application for conciliation on 12.04.2017 which had also concluded on 27.06.2017, but the Petitioner had not approached the Labour Court after 45 days either from 12.04.2017 or even from 27.06.2017. As such, the contentions made on behalf of the Petitioner cannot be countenanced."

(see also Kandasamy Spinning Mills Private Ltd. vs S. Palanisamy and Ors. MANU/RN/6831/2019

Thus, in view of above said fact, combined reading of section 2A (2) and 2A (3) of the Act, the legal position which emerge out is that if a workman is aggrieved by order of discharge, dismissal, retrenchment or otherwise termination, he may approach the Tribunal within a period three years from dated of passing of order. Because, it is settled positon of law as well that "if law provides a particular thing that all other modes or methods of doing that thing must be deemed to have been prohibited", the said proposition of law is first held in the case of ***Tylor Vs. Tylor (1875) LR 1 ChD 426*** and adopted later by the ***Judicial Committee in Nazir Ahmed Vs. King Emperor AIR 1936 PC 253*** and thereafter by the Hon'ble Supreme Court in a series of judgments including those in ***Rao Shiv Bahadur Singh & another Vs. State of Vindhya Pradesh AIR 1954 SC 322, State of Uttar Pradesh Vs. Singhara Singh AIR 1964 SC 358, Chandra Kishore Jha Vs. Mahavir Prasad 1999 (8) SCC 266, Dhananjaya Reddy Vs. State of Karnataka 2001 (4) SCC 9 and Gujarat Urja Vikas Nigam Ltd. Vs. Essar Power Ltd. 2008 (4) SCC 755***.

In the case of ***Grasim Industries Ltd. Vs. Collector of Customs, Bombay, (2002) 4 SCC 297***, the Hon'ble Supreme Court held as under:-

"No words or expressions used in any statute can be said to be redundant or superfluous. In matters of interpretation one should not concentrate too much on one word and pay too little attention to other words. No provision in the statute and no word in any section can be construed in isolation. Every provision and

every word must be looked at generally and in the context in which it is used. It is said that every statute is an edict of the legislature. The elementary principle of interpreting any word while considering a statute is to gather the mens or sententia legis of the legislature. Where the words are clear and there is no obscurity, and there is no ambiguity and the intention of the legislature is clearly conveyed, there is no scope for the Court to take upon itself the task of amending or alternating the statutory provisions. Wherever the language is clear the intention of the legislature is to be gathered from the language used. While doing so what has been said in the statute as also what has not been said has to be noted. The construction which requires for its support addition or substitution of words or which results in rejection of words has to be avoided".

Hon'ble the Apex Court in the case of ***Bhavnagar University Vs. Palitana Sugar Mill (P) Ltd., (2003) 2 SCC 111***, held as under:-

"24. True meaning of a provision of law has to be determined on the basis of what provides by its clear language, with due regard to the scheme of law.

25. Scope of the legislation on the intention of the legislature cannot be enlarged when the language of the provision is plain and unambiguous. In other words statutory enactments must ordinarily be construed according to its plain meaning and no words shall be added, altered or modified unless it is plainly necessary to do so to prevent a provision from being unintelligible, absurd, unreasonable, unworkable or totally irreconcilable with the rest of the statute".

In the case of ***Harshad S. Mehta Vs. State of Maharashtra, (2001) 8 SCC 257***, it has been held as under:-

"There is no doubt that if the words are plain and simple and call for only one construction that construction is to be adopted whatever be its effect".

In the case of ***Union of India Vs. Hansoli Devo (2002) 7 SCC 273***, Hon'ble the Supreme Court observed as under:-

"9.It is a cardinal principle of construction of statute that when language of the statute is plain and unambiguous, then the court must give effect to the words used in the statute and it would not be open to the courts to adopt a hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act."

In the case of ***Patango Kadam Vs. Prithviraj Sayajiro Yadav Deshmukh (2001) 3 SCC 594***, took the view:-

"12. Thus when there is an ambiguity in terms of a provision, one must look at well-settled principles of construction but it is not open to first to create an ambiguity which does not exist and then try to resolve the same by taking recourse to some general principle."

Also, Hon'ble the Supreme Court in the case of ***Popat Bahiru Govardhane & others vs. Special Land Acquisition Officer & another (2013) 10 SCC 765*** has held as under:

"16. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute. "A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation."

(See Martin Burn Ltd. v. Corpn. of Calcutta10, AIR p. 535, para 14 and Rohitash Kumar v. Om Prakash Sharma11.)

Reverting to the facts of the present case, as per the admitted position, workman was voluntarily retired which does not fall within the definition of section 2A of the Act; moreover, conciliations initiated before Regional Labour Commissioner (C), Lucknow ended up with failure report of the Regional Labour Commissioner, so, his present claim petition cannot be entertained u/s 2A (2) of the Act.

Accordingly, the same is rejected on the ground that same is not maintainable before this Tribunal, with liberty to the claimant to pursue its case before appropriate forum as per law.

Award as above.

LUCKNOW.

06th July, 2023.

Let two copies of this award be sent to the Ministry for publication.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 11 अगस्त, 2023

का.आ. 1311.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **महाप्रबंधक, हिंदुस्तान एयरोनॉटिक्स लिमिटेड, लखनऊ; मैसर्स शाह बंधु, द्वारा श्री योगेंद्र प्रसाद शाह, स्वच्छता ठेकेदार, हरजेंद्र नगर, कानपुर ; मैसर्स ग्रुप-4 फैसिलिटी सर्विस, द्वारा श्री नवल कपूर, निदेशक कार्मिक, 1/97, विद्युत खंड, गोमती नगर, लखनऊ,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री केशन (अब मृतक के स्थान पर उनकी कानूनी उत्तराधिकारी श्रीमती शांति देवी, कामगार,**के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ पंचाट(संदर्भ संख्या 90/2011) को** जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 27/07/2023 को प्राप्त हुआ था।

[सं. एल-42025/07/2023-161-आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 11th August, 2023

S.O. 1311.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 90/2011**) of the **Central Government Industrial Tribunal cum Labour Court–Lucknow,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The General Manager, Hindustan Aeronautics Limited, Lucknow ;M/s Shah Bandhu, through Shri Yogendra Prasad Shah,Sanitation Contractor, Harjendra Nagar, Kanpur ; M/s Group -4 Facilities Service, through Shri Nawal Kapoor, Director Personnel, 1/97, Vidyut Khand, Gomti Nagar, Lucknow,** and **Shri Keshan (now deceased substituted by his legal heirs Smt. Shanti Devi), Worker,** which was received along with soft copy of the award by the Central Government on 27/07/2023.

[No. L-42025/07/2023-161- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT LUCKNOW

PRESENT

JUSTICE ANIL KUMAR, PRESIDING OFFICER

I.D. No. 90/2011

BETWEEN

Sri Keshan (now deceased substituted by his legal heirs Smt. Shanti Devi) son of late Lutai, Resident of 631/614, Ismailganj, Post Chinhat, Faizabad Road, District Lucknow.

AND

1. Hindustan Aeronautics Limited, Lucknow Division, Lucknow through its General Manager.

2. General Manager, Hindustan Aeronautics Limited, Lucknow Division, Lucknow.

3. M/s Shah Bandhu, through Sri Yogendra Prasad Shah,
Sanitation Contractor, 504, Viman Nagar, G.T. Road.
Harjendra Nagar, Kanpur.

4. M/s Group -4 Facilities Service, through Sri Nawal Kapoor, Director Personnel, 1/97, Vidyut Khand, Gomti Nagar, Lucknow.

AWARD

On 28.02.2011 the claimant/workman has filed the ID case No. 89/2011 as per the provisions of Section 2A (2) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act).

Facts of the case:

Hindustan Aeronautics Limited, Lucknow Division (hereinafter referred to as Establishment), is a factory registered under the provisions of the Factories Act, which is situated at Faizabad Road, Lucknow and the sanitation work of the premises of the Establishment as well as Plant and Machinery installed at the factory premises is a perennial as well regular nature of job.

Establishment is an Engineering Industry and the Government has issued a notification dated 24.04.1990 under Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 after the recommendation of Contract Labour Advisory Board, whereby 18 works of the Engineering Industry, which are regular or perennial in nature has been prohibited.

However, it was the prevalent practice in establishment that they employed the contract labour for sanitation work of the establishment/premises despite the fact that the sanitation work was regular in nature; and the claimant/workman was working in the establishment right from the very beginning i.e. from the date, the factory was established and continuously worked till the date of termination i.e. 21.12.2001.

As per the case workman order of termination dated 21.12.2001 by which his services in an illegal and unjustified manner was terminated, inasmuch as in establishment of the employers there were more than 100 workmen employed as such the compliance of Section 25-N of the Industrial Disputes Act was necessary but before terminating the services of the workmen, the employers have not complied with the provisions of Section 25-N of the Industrial Disputes Act.

Further, the services of the workman have been terminated by the principal employer not by the contractor and the work which were being performed by the concerned workman still exist with employers and the same is being carried out by employing new workmen on contract basis.

In the claim petition it has been pleaded that earlier the workmen's Union in Establishment i.e. Hindustan Aeronautics Karamchari Sabha, raised the dispute of the workman along with some other workmen before the State Government which, was referred for adjudication before the Industrial Tribunal (II), U.P., Lucknow, registered before Industrial Tribunal (II), U.P., Lucknow as Adj. Case No.: 126 of 2002.

However, on account of the fact that the workman along with some other workmen were not satisfied with the pairavi of the Union as such an authority letter was filed along with an application by 20 workmen amongst the concerned workman to represent the said case but the Union, filed objection that as applicants who have filed the application are not party in the said case as such they are not entitled to represent the case. By an order dated 10.03.2010, the Hon'ble Presiding Officer held that the workmen are not satisfied with the proceedings through Union, they can raise separate dispute "under the provisions of Act.

Thereafter, an application was filed by 36 workmen including the claimant/workman on 10.07.2010 before, the Hon'ble Presiding Officer, Industrial Tribunal (2), U.P., Lucknow for deletion of the names of the workmen from the reference order so that they may be in position to raise fresh industrial dispute before the competent Forum and the Hon'ble Presiding Officer, Industrial Tribunal (2), U.P., Lucknow after hearing the parties concerned was pleased to allow the said application except three whose names were not mentioned in reference order.

In pursuance to order dated 20.07.2010 the workman concerned along with 32 other workman filed an application before the Regional Labour Commissioner (Central), Lucknow which was registered as Case No. LKO-8(2-32)/2010: Laxmi Narain and 32 others Vs. General Manager, Hindustan Aeronautics Limited and others.

Thereafter, Regional Labour Commissioner (Central), Lucknow, called upon the parties for conciliation proceedings and in pursuance thereof Hindustan Aeronautics Limited appeared before him and filed their objections and due to the negative attitude of the employers, no settlement could be arrived between the parties.

Since the mandatory period i.e. 45 days as specified under Section 2- A (2) of the Industrial Disputes Act, 1947 (as amended by Industrial Disputes (Amendment) Act, 2010 (No. 24 of 2010) had been expired as such the concerned workman seek the permission from the Regional Labour Commissioner (Central), Lucknow to withdraw the case and to approach the Hon'ble Court on 27.01.2011, which was duly accepted by the Regional Labour Commissioner (Central), Lucknow.

In view of above said factual background the present case has been filed u/s 2A (2) of the Industrial Disputes

Act, 1947 (hereinafter referred to as the Act) with following prayer:

"WHEREFORE, it is most respectfully prayed that the Hon'ble Court may be pleased to declare that the action of the management in terminating the services of workman with effect from 21.12.2001 is neither legal nor justified and accordingly the workman concerned is entitled to get reinstatement in service together with entire consequential benefits including back wages and other service benefits, in the interest of justice."

On behalf the respondent written statement has been filed on 15.05.2012 in which following preliminary objection was taken:

"1. That the aforesaid ID Case No.82/2011 is not maintainable as per the provisions of ID Act 1947 (as mended by ID (Amendment) Act 2010) because the same is barred by limitation U/S 2A(3) of the ID Act (Amendment 2010) which is quoted as below:

2A(3) "the application referred to in sub section 2 shall be made to Labour Court or Tribunal before the expiry of 3 years from the date of discharge, dismissal, retrenchment or otherwise termination service as specified in sub section 1".

In addition to the above said facts, the respondent in its written statement also given the parawise reply to the case as set up by the claimant in his statement of claim.

During the pendency of the present case workman/Sri Kesan died on 19th November 2012 as such an application for substitution was made on behalf of his legal heirs Smt. Shanti Devi his wife, allowed by order dated 03.03.2023.

Sri Adarsh Jadghari has submitted that before deciding the matter in question on merit, the question "whether the claim petition filed by the claimant on 28.02.2011 as per the provisions of section 2A (2) of the Act, aggrieved by the order of termination/retrenchment dated 21.12.2001 is barred by the period of limitation as provided u/s 2A(3) of the Act or not?"

Sri Adarsh Jadghari in support of his argument submits, admittedly as per the case of the claimant his services were terminated on 21.12.2001, aggrieved by the same he filed present industrial dispute u/s 2A (2) of the Act; however, u/s 2A (3) of the Act the period of limitation is provided for three years, from the date of retrenchment/termination, so, the present claim petition is barred by the period of limitation as provided u/s 2A (3) of the Act, liable to be dismissed.

Sri Arjun Singh, learned counsel for claimant, rebutting the said contention has placed reliance as pleaded in the statement of claim and submits that in view of the facts as stated hereinabove especially in paragraph 27 & 28, which are quoted herein below:

"27. That since the mandatory period i.e. 45 days as specified under Section 2- A (2) of the Industrial Disputes Act, 1947 (as amended by Industrial Disputes (Amendment) Act, 2010 (No. 24 of 2010) had been expired as such the concerned workman seek the permission from the Regional Labour Commissioner (Central), Lucknow to withdraw the case and to approach the Hon'ble Court on 27.01.2011, which was duly accepted by the Regional Labour Commissioner (Central), Lucknow.

28. That in pursuance thereof, the workman concerned approaching the Hon'ble Tribunal for the adjudication of the industrial disputes as prevalent between the workman and the employers."

The present claim petition filed u/s 2 (2) of the Act is maintainable and the arguments as raised by the learned counsel for respondent that same is barred by the period limitation is devoid of merit, be rejected.

I have heard the learned counsel for parties and gone through the record.

Before deciding the same it will be appropriate to go through aims and objects of Industrial Dispute Act, 1947 in brief which are that Industrial Disputes Bill was introduced by the Government of India in the Legislative Assembly on the 28th October 1946. After the Select Committee's report on 3rd February 1947, with some amendments, it was passed in March 1947 and became the law from Ist April 1947 repealing the Trade Disputes Act 1929.

While retaining most of the provisions of the earlier law, this Act introduced two new institutions for the prevention and settlement of industrial disputes; works committees consisting of representatives of employers and workers; and machinery for industrial adjudication.

A reference to an industrial tribunal under this Act lies where both parties to any industrial dispute apply for such reference, and also where the appropriate Government considers it expedient so to do. An award of a tribunal has normally to be enforced by the Government and is binding on both parties to the dispute for such periods as may be specified, upto a maximum of one year. This Act seeks to give a new orientation to the entire conciliation machinery.

Another important new feature of the Act is the prohibition of strikes and lockouts during the pendency of conciliation and adjudication proceedings of settlements reached in the course of conciliation proceedings and of awards of industrial tribunals declared binding by the appropriate government.

Rules, orders or notifications requiring the larger industrial establishments to set up works committees were issued by the Government of India and most of the State Governments.

Objectives: General

The objectives of industrial relations and industrial disputes legislation, may be outlined as under:-

(i) Industrial Peace: For prosperity of industry, it is necessary that there be a continuous and growing production which is only possible if (a) there are no interruptions and stoppages in production i.e. absence of disputes, and (b) if the various agencies of production are satisfied and are in a harmonious bent to work. In other words, industrial peace is very necessary for the vitality of industry.

(ii) Economic Justice: All interruptions in production arising out of industrial dispute are really caused by the dissatisfaction of labour with their existing economic condition. The history of labour struggle is nothing but a continuous demand for fair return to labour expressed in varied forms e.g. (a) increase in wages, (b) resistance to decrease in wages, (c) grant of allowances and benefits etc.(***Hariprasad Vs. A.D.Divelkar, AIR 1957 SC 121***)

Social and economic justice which is the bedrock of our Constitution and economic organization also requires that any industrial relations or disputes legislation, to be effective remedial statute, must embrace not only law for regulation of labour relations with capital, process for channelizing collective bargaining methods for negotiation, mediation, conciliation and settlements of industrial conflict, but also a system for giving fair play and justice to labour and removal of economic injustice.

The preamble of the Act states that its main object is to make provision for investigation and settlement of industrial disputes. Viewed in the above background, the Industrial Disputes Act 1947 is a progressive piece of social legislation and is designed to settle the disputes on a new pattern known under the Act as adjudication machinery. The object of all labour legislation is to ensure fair wages and to prevent disputes so that production might not be adversely affected. (***Banaras Ice Factory Ltd. Vs. Its Workmen, AIR 1957 SC 167***)

The purpose of the Act is to provide machinery for a just and equitable settlement by adjudication, (***G. Claridge and Company Ltd. Vs. Industrial Tribunal, Bombay, AIR 1951 Bombay 100***) and amelioration of the conditions of workmen in industry.

Individual and collective industrial disputes: Individual as well as collective disputes may ripen into industrial disputes. The true nature of an individual dispute is that it is a collective dispute. Though a dispute may at the inception be initiated by an individual, yet if it is taken up by the fellow-workers or a union, or a sufficient number of workers, it may assume the collective character and would become an industrial dispute. (**Standard Vacum Oil Co. Errakulam Vs. I.Tribunal, Errakulam 1952-II LLJ 612**). A dispute which continues to retain its individual character cannot be regarded as an industrial dispute. This being the basic law, it is within the competence of the legislature to widen or narrow the coverage of an industrial dispute. The Industrial Disputes Act has also been amended to cover some individual disputes. It is not necessary that a majority should take an industrial dispute. It is sufficient if a substantial group of workmen take it up. When thus taken, it becomes an industrial or collective dispute.

Individual dispute an industrial dispute: The important amongst the above are however the amendments of 1965. By the Act of 1965, a new Section 2A has been added in Act whereby specified categories of individual disputes are also deemed to be industrial disputes. The section reads as under:

"*2A. Dismissal, etc of an individual workman to be deemed to be industrial dispute-*

Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute."

This amendment revives, impediment in the way of workman with the necessity that to make an industrial dispute it must be taken up or espoused by substantial section of the workmen or any union of those workmen and gives an individual workman a remedy for security of his service and indirectly freedom to join or not to join any union. Thus, individual disputes could be referred to Tribunal as per Section 2A after 1.12.1965. (**National Productivity Council, 1969-II LLJ 186**).

Thereafter, by Industrial Disputes (Amendment) Act 2010 (Act No. 24 of 2010), Section 2A(a), was renumbered as Sub-section (1) and by the same Act i.e. Act No.24 of 2010 Sub-section (2) and Sub-section (3) have been inserted after Section 2A (1) of Industrial Dispute Act 1947 which came into effect w.e.f. 15.09.2010, which reads as under:

"2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute -

"(1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.

(2) Notwithstanding anything contained in Section 10, any such workman as is specified in sub-Section(1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-Section(2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section(1)."

Now the core question to be considered is that in view of the facts which are stated hereinabove, that admittedly the services of applicant was terminated on 21.12.2001, thereafter he has filed the present case before this Tribunal u/s 2A of the Act on 28.02.2011 on the grounds as taken by him in his claim petition, is maintainable or barred by the period of limitation as provided u/s 2A(3) of the Act.

Answer to the said question find place in the judgment passed by Hon'ble the Karnataka High Court in ***ITC Infotech India Ltd. vs. Venkataramana Uppada ILR 2016 Karnataka 3041***, relevant potion quoted as under:

"19. Keeping the above principles in mind, a reading of Section 2A(3) would lead to an irresistible conclusion that time stipulated for invoking the jurisdiction of the Labour Court or the Tribunal as the case may be, has to be necessarily "before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section (1)." Time limit for making an application to the Labour Court stipulated in sub-Section (3) of Section 2A does not appear to have a bearing to the provisions of sub-Section (2) of Section 2A. In any event right conferred under Section 2A would lapse immediately preceding the date of expiry of three years from the date of dismissal, discharge etc.,. In other words, the limitation of three years prescribed under sub-Section (3) of Section 2A being mandatory, same cannot be condoned by taking recourse to Section 5 of the Limitation Act, 1963 which has no application to the provisions of Industrial Disputes Act, 1947.

20. It is well settled principle that if an act is required to be performed within a specified time, the same would primarily be mandatory. It has been held in the case of NAZIRUDDIN VS SITARAM AGARWAL reported in AIR 2003 SCW 908 to the following effect:

"The Courts jurisdiction to interpret a statute can be invoked when the same is ambiguous. It is well known that in a given case, the Court can iron out the fabric but it cannot change the texture of the fabric. It cannot enlarge the scope of legislation or intention when the language of provision is plain and unambiguous. It cannot add or subtract the words to a statute or read something into it which is not there. It cannot re-write or recast legislation. It is also necessary to determine that there exists a presumption that the legislature has not used any superfluous words. It is well settled that the real intention of legislature must be gathered from the language used."

21. Thus, in the background of the dicta of the Apex Court in NAZIRUDDIN's case referred to supra, when Section 2A is perused, it would indicate that if the legislature really intended that the period of limitation provided in sub-Section (3) of Section 2A was to be construed as directory, then it would not have prescribed the limitation of three years and it would have used the words "at any time" instead of using the words "before the expiry of three years". Though the words at any time' is found in Section 10(1), same is conspicuously absent in sub-Section(3) of Section 2A which would clearly depict the intention of the legislature namely, it had deliberately imposed limitation period under sub-Section (3)

of Section 2A and as such legislature did not employ the words at any time' in the said provision as found in Section 10(1) and in its place, it has specifically incorporated the words before the expiry of three years'. Hence, to interpret the period of limitation found in sub-Section (3) of Section 2A as directory and not mandatory would amount to adding something which is not provided in the provision by the legislature or it would amount to doing violence to the provision, if such interpretation is sought to be made."

And Hon'ble Rajasthan High court in the case of ***Pankaj Swami vs. Rajasthan State Road Transport Corporation & ors. MANU/RH/1788/2019*** after taking into consideration the provisions of sedation 2A(2) & 2A(3) of the Act held as under:

"The provisions are explicit, wherein the workman can approach the Labour Court for adjudication of the dispute in case of discharge, dismissal, retrenchment etc., however, sub-section (3) provides that the application should be made to the Labour Court before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified.

8. The submission made by learned Counsel for the petitioner that as the cause of action arose to the petitioner prior to introduction of the provision of limitation by sub-section (3) the same would have no application is concerned, the submission made is fallacious, inasmuch as, the provision under which the application has been filed by the petitioner i.e. section 2-A(2) of the Act, itself was introduced by the amendment Act of 2010 alongwith the limitation therein and therefore, the provision of limitation which was introduced in the year 2010 alongwith the main provision providing for the limitation would apply with all force and the submission that the same would have no application to the cause of action, which arose prior to 2007, has no basis.

The submissions as made, if accepted, would result in circumstances where if the cause of action has arisen post 2010, the same would be barred, whereas the causes, which arose prior to 2010 like in the year 2007 in the present case and the application is filed after 7 years, the same would never become barred by limitation, such a result is legally untenable.

9. The submission made by learned Counsel for the petitioner that as the petitioner had approached the Conciliation Officer and had raised the dispute before him, where there was no limitation and the petitioner approached the Labour Court only as per the directions of the Conciliation Officer the claim could not be rejected by barred by limitation also does not advance the cause of the petitioner, inasmuch as, the petitioner could have taken advantage of the said position, if the Conciliation Officer had sent a failure report to the appropriate Government who in turn had referred the dispute to the Labour Court. Merely because the Conciliation Officer suggested approaching the Labour Court, which suggestion was accepted by the petitioner, cannot be termed as a reference under section 10 of the Act to the Labour Court.

10. In view of the above discussion in so far as the rejection of the claim of the petitioner by the Labour Court being barred by limitation is concerned, the same cannot be faulted."

And in the case of ***Parthasarathy vs. Souther Pins and Products Pvt. Ltd. and Ors. MANU/TN/6691/2020*** Hon'ble the High Court of Madras has held as under:

"Inasmuch as the notice of termination of the Petitioner in the present case has been made on 06.10.2014 under Section 2-A(2) of the Act after the said amendment has come into force, the limitation of three years prescribed under Section 2-A(3) of the Act would necessarily apply. As such, there is no infirmity in the decision-making process of the Labour Court in refusing to entertain the application made by the Petitioner has time barred. This view is supported by the decisions of this Court in the following cases:-

(i) ITC Infotech India Ltd. v. Venkataramana Uppada (Order dated 03.03.2016 in W.P. No. 27510 of 2015 passed by the High Court of Karnataka)

(ii) Management of Ashok Leyland v. Presiding Officer, Labour Court (Order dated 13.04.2016 in W.P. Nos. 9640 and 9641 of 2016 passed by this Court)

(iii) Ravi Kumar v. Management, Tamil Nadu State Road Transport Corporation (Order dated 11.04.2017 in W.P. (MD) No. 4269 of 2017 passed by the Madurai Bench of this Court)

(iv) K. Settu v. Assistant Engineer, Tamil Nadu Electricity Board (Order dated 20.09.2019 in W.P. No. 8413 of 2019 passed by this Court)

5. A feeble attempt is made on behalf of the Petitioner to suggest that the period of conciliation must be excluded while computing the limitation. It is, no doubt, true that Section 2-A(2) of the Act contemplates such application to be made to the Labour Court after the expiry of 45 days from the date

of application to the Conciliation Officer is made. However, it does not require that the conciliation proceedings should have been completed before making that application under Section 2-A(2) of the Act. The words in Section 2-A(3) of the Act are clear enough that the limitation has to be reckoned on the expiry of three years from the date of termination. The Petitioner in the instant case had made the application for conciliation on 12.04.2017 which had also concluded on 27.06.2017, but the Petitioner had not approached the Labour Court after 45 days either from 12.04.2017 or even from 27.06.2017. As such, the contentions made on behalf of the Petitioner cannot be countenanced."

(see also Kandasamy Spinning Mills Private Ltd. vs S. Palanisamy and Ors. MANU/RN/6831/2019

Thus, in view of above said fact, combined reading of section 2A (2) and 2A (3) of the Act, the legal position which emerge out is that if a workman is aggrieved by order of discharge, dismissal, retrenchment or otherwise termination, he may approach the Tribunal within a period three years from dated of passing of order.

Taking into consideration, above said facts and positon of law as well that "if law provides a particular thing that all other modes or methods of doing that thing must be deemed to have been prohibited", the said proposition of law is first held in the case of ***Tylor Vs. Tylor (1875) LR 1 ChD 426*** and adopted later by the ***Judicial Committee in Nazir Ahmed Vs. King Emperor AIR 1936 PC 253*** and thereafter by the Hon'ble Supreme Court in a series of judgments including those in ***Rao Shiv Bahadur Singh & another Vs. State of Vindhya Pradesh AIR 1954 SC 322, State of Uttar Pradesh Vs. Singhara Singh AIR 1964 SC 358, Chandra Kishore Jha Vs. Mahavir Prasad 1999 (8) SCC 266, Dhananjaya Reddy Vs. State of Karnataka 2001 (4) SCC 9 and Gujarat Urja Vikas Nigam Ltd. Vs. Essar Power Ltd. 2008 (4) SCC 755***.

In the case of ***Grasim Industries Ltd. Vs. Collector of Customs, Bombay, (2002) 4 SCC 297***, the Hon'ble Supreme Court held as under:-

"No words or expressions used in any statute can be said to be redundant or superfluous. In matters of interpretation one should not concentrate too much on one word and pay too little attention to other words. No provision in the statute and no word in any section can be construed in isolation. Every provision and every word must be looked at generally and in the context in which it is used. It is said that every statute is an edict of the legislature. The elementary principle of interpreting any word while considering a statute is to gather the mens or sententia legis of the legislature. Where the words are clear and there is no obscurity, and there is no ambiguity and the intention of the legislature is clearly conveyed, there is no scope for the Court to take upon itself the task of amending or alternating the statutory provisions. Wherever the language is clear the intention of the legislature is to be gathered from the language used. While doing so what has been said in the statute as also what has not been said has to be noted. The construction which requires for its support addition or substitution of words or which results in rejection of words has to be avoided".

Hon'ble the Apex Court in the case of ***Bhavnagar University Vs. Palitana Sugar Mill (P) Ltd., (2003) 2 SCC 111***, held as under:-

"24. True meaning of a provision of law has to be determined on the basis of what provides by its clear language, with due regard to the scheme of law.

25. Scope of the legislation on the intention of the legislature cannot be enlarged when the language of the provision is plain and unambiguous. In other words statutory enactments must ordinarily be construed according to its plain meaning and no words shall be added, altered or modified unless it is plainly necessary to do so to prevent a provision from being unintelligible, absurd, unreasonable, unworkable or totally irreconcilable with the rest of the statute".

In the case of ***Harshad S. Mehta Vs. State of Maharashtra, (2001) 8 SCC 257***, it has been held as under:-

"There is no doubt that if the words are plain and simple and call for only one construction that construction is to be adopted whatever be its effect".

In the case of ***Union of India Vs. Hansoli Devo (2002) 7 SCC 273***, Hon'ble the Supreme Court observed as under:-

"9.It is a cardinal principle of construction of statute that when language of the statute is plain and unambiguous, then the court must give effect to the words used in the statute and it would not be open to the courts to adopt a hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act."

In the case of ***Patango Kadam Vs. Prithviraj Sayajiro Yadav Deshmukh (2001) 3 SCC 594***, took the view:-

"12. Thus when there is an ambiguity in terms of a provision, one must look at well-settled principles of construction but it is not open to first to create an ambiguity which does not exist and then try to resolve the same by taking recourse to some general principle."

Also, Hon'ble the Supreme Court in the case of ***Popat Bahiru Govardhane & others vs. Special Land Acquisition Officer & another (2013) 10 SCC 765*** has held as under:

> *"16. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute. "A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation."*
>
> *(See Martin Burn Ltd. v. Corpn. of Calcutta10, AIR p. 535, para 14 and Rohitash Kumar v. Om Prakash Sharma11.)*

Reverting to the facts of the present case, as per admitted position, the services of the workman was terminated on 21.12.2001 and the same has been challenged by him by filing the present industrial dispute on 28.02.2011.

So, keeping in view the above said facts as well as that the workman/Sri Keshan (now deceased substituted by his legal heirs Smt. Shanti) Devi cannot derive any benefit from the facts on which he has approached the Tribunal after expiry of period three years from the date of his termination, because his services were terminated on 21.12.2001 and filed the present case on 28.02.2011 u/s 2A (2) of the Act, as such, the claim petition is barred by the period of limitation provided u/s 2A (3) of the Act, liable to be rejected.

Accordingly, the same is rejected on the ground that same is barred by period of limitation as per section 2A (3) of the Industrial Disputes Act, 1947, with liberty to the claimant to pursue its case before appropriate forum as per law.

Award as above.

LUCKNOW.

13.07.2023

Let two copies of this award be sent to the Ministry for publication.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 11 अगस्त, 2023

का.आ. 1312.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **महाप्रबंधक, हिंदुस्तान एयरोनॉटिक्स लिमिटेड, लखनऊ; मैसर्स शाह बंधु, द्वारा श्री योगेंद्र प्रसाद शाह, स्वच्छता ठेकेदार, हरजेंद्र नगर, कानपुर ; मैसर्स ग्रुप-4 फैसिलिटी सर्विस, द्वारा श्री नवल कपूर, निदेशक कार्मिक, 1/97, विद्युत खंड, गोमती नगर, लखनऊ,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री पाल (अब मृतक के स्थान पर उनके कानूनी उत्तराधिकारी श्रीमती गुड्डी हैं), कामगार,**के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ पंचाट (संदर्भ संख्या 92/2011) को** जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 27/07/2023 को प्राप्त हुआ था।

[सं. एल-42025/07/2023-162-आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 11th August, 2023

S.O. 1312.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 92/2011**) of the **Central Government Industrial Tribunal cum Labour Court–Lucknow,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The General Manager, Hindustan Aeronautics Limited, Lucknow ;M/s Shah Bandhu, through Shri Yogendra Prasad Shah,Sanitation Contractor, Harjendra Nagar, Kanpur ; M/s Group -4 Facilities Service, through Shri Nawal Kapoor, Director Personnel, 1/97, Vidyut Khand, Gomti Nagar, Lucknow,** and **Shri Pal (now deceased substituted by his legal heirs Smt. Guddi), Worker,** which was received along with soft copy of the award by the Central Government on 27/07/2023.

[No. L-42025/07/2023-162- IR (DU)]
D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR, PRESIDING OFFICER

I.D. No. 92/2011

BETWEEN

Sri Pal (now deceased substituted by his legal heirs Smt. Guddi) son of late Lekhai, Ismailganj, Post Chinhat,

Faizabad Raod District Lucknow.

AND

1. Hindustan Aeronautics Limited, Lucknow Division, Lucknow through its General Manager.
2. General Manager, Hindustan Aeronautics Limited, Lucknow Division, Lucknow.
3. M/s Shah Bandhu, through Sri Yogendra Prasad Shah

   Sanitation Contractor, 504, Viman Nagar, G.T. Road. Harjendra Nagar, Kanpur.
4. M/s Group -4 Facilities Service, through Sri Nawal Kapoor, Director Personnel, 1/97, Vidyut Khand, Gomti Nagar, Lucknow.

AWARD

On 28.02.2011 the claimant/workman has filed the ID case No. 89/2011 as per the provisions of Section 2A (2) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act).

Facts of the case:

Hindustan Aeronautics Limited, Lucknow Division (hereinafter referred to as Establishment), is a factory registered under the provisions of the Factories Act, which is situated at Faizabad Road, Lucknow and the sanitation work of the premises of the Establishment as well as Plant and Machinery installed at the factory premises is a perennial as well regular nature of job.

Establishment is an Engineering Industry and the Government has issued a notification dated 24.04.1990 under Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 after the recommendation of Contract Labour Advisory Board, whereby 18 works of the Engineering Industry, which are regular or perennial in nature has been prohibited.

However, it was the prevalent practice in establishment that they employed the contract labour for sanitation work of the establishment/premises despite the fact that the sanitation work was regular in nature; and the claimant/workman was working in the establishment right from the very beginning i.e. from the date, the factory was established and continuously worked till the date of termination i.e. 21.12.2001.

As per the case workman order of termination dated 21.12.2001 by which his services in an illegal and unjustified manner was terminated, inasmuch as in establishment of the employers there were more than 100 workmen employed as such the compliance of Section 25-N of the Industrial Disputes Act was necessary but before terminating the services of the workmen, the employers have not complied with the provisions of Section 25-N of the Industrial Disputes Act.

Further, the services of the workman have been terminated by the principal employer not by the contractor and the work which were being performed by the concerned workman still exist with employers and the same is being carried out by employing new workmen on contract basis.

In the claim petition it has been pleaded that earlier the workmen's Union in Establishment i.e. Hindustan Aeronautics Karamchari Sabha, raised the dispute of the workman along with some other workmen before the State Government which, was referred for adjudication before the Industrial Tribunal (II), U.P., Lucknow, registered before Industrial Tribunal (II), U.P., Lucknow as Adj. Case No.: 126 of 2002.

However, on account of the fact that the workman along with some other workmen were not satisfied with the pairavi of the Union as such an authority letter was filed along with an application by 20 workmen amongst the concerned workman to represent the said case but the Union, filed objection that as applicants who have filed the application are not party in the said case as such they are not entitled to represent the case. By an order dated 10.03.2010, the Hon'ble

Presiding Officer held that the workmen are not satisfied with the proceedings through Union, they can raise separate dispute "under the provisions of Act.

Thereafter, an application was filed by 36 workmen including the claimant/workman on 10.07.2010 before, the Hon'ble Presiding Officer, Industrial Tribunal (2), U.P., Lucknow for deletion of the names of the workmen from the reference order so that they may be in position to raise fresh industrial dispute before the competent Forum and the Hon'ble Presiding Officer, Industrial Tribunal (2), U.P., Lucknow after hearing the parties concerned was pleased to allow the said application except three whose names were not mentioned in reference order.

In pursuance to order dated 20.07.2010 the workman concerned along with 32 other workman filed an application before the Regional Labour Commissioner (Central), Lucknow which was registered as Case No. LKO-8(2-32)/2010: Laxmi Narain and 32 others Vs. General Manager, Hindustan Aeronautics Limited and others.

Thereafter, Regional Labour Commissioner (Central), Lucknow, called upon the parties for conciliation proceedings and in pursuance thereof Hindustan Aeronautics Limited appeared before him and filed their objections and due to the negative attitude of the employers, no settlement could be arrived between the parties.

Since the mandatory period i.e. 45 days as specified under Section 2- A (2) of the Industrial Disputes Act, 1947 (as amended by Industrial Disputes (Amendment) Act, 2010 (No. 24 of 2010) had been expired as such the concerned workman seek the permission from the Regional Labour Commissioner (Central), Lucknow to withdraw the case and to approach the Hon'ble Court on 27.01.2011, which was duly accepted by the Regional Labour Commissioner (Central), Lucknow.

In view of above said factual background the present case has been filed u/s 2A (2) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act) with following prayer:

> *"WHEREFORE, it is most respectfully prayed that the Hon'ble Court may be pleased to declare that the action of the management in terminating the services of workman with effect from 21.12.2001 is neither legal nor justified and accordingly the workman concerned is entitled to get reinstatement in service together with entire consequential benefits including back wages and other service benefits, in the interest of justice."*

On behalf the respondent written statement has been filed on 15.05.2012 in which following preliminary objection was taken:

> *"1. That the aforesaid ID Case No.82/2011 is not maintainable as per the provisions of ID Act 1947 (as mended by ID (Amendment) Act 2010) because the same is barred by limitation U/S 2A(3) of the ID Act (Amendment 2010) which is quoted as below:*
>
> > *2A(3) "the application referred to in sub section 2 shall be made to Labour Court or Tribunal before the expiry of 3 years from the date of discharge, dismissal, retrenchment or otherwise termination service as specified in sub section 1".*

In addition to the above said facts, the respondent in its written statement also given the parawise reply to the case as set up by the claimant in his statement of claim.

During the pendency of the present case workman/Sri Pal died on 16.09.2019 as such an application for substitution was made on behalf of his legal heirs Smt. Guddi his wife, allowed by order dated 13.03.2023.

Sri Adarsh Jadghari has submitted that before deciding the matter in question on merit, the question "whether the claim petition filed by the claimant on 28.02.2011 as per the provisions of section 2A (2) of the Act, aggrieved by the order of termination/retrenchment dated 21.12.2001 is barred by the period of limitation as provided u/s 2A(3) of the Act or not?"

Sri Adarsh Jadghari in support of his argument submits, admittedly as per the case of the claimant his services were terminated on 21.12.2001, aggrieved by the same he filed present industrial dispute u/s 2A (2) of the Act; however, u/s 2A (3) of the Act the period of limitation is provided for three years, from the date of retrenchment/termination, so, the present claim petition is barred by the period of limitation as provided u/s 2A (3) of the Act, liable to be dismissed.

Sri D.K. Gupta, learned counsel for claimant, rebutting the said contention has placed reliance as pleaded in the statement of claim and submits that in view of the facts as stated hereinabove especially in paragraph 27 & 28, which are quoted herein below:

> *"27. That since the mandatory period i.e. 45 days as specified under Section 2- A (2) of the Industrial Disputes Act, 1947 (as amended by Industrial Disputes (Amendment) Act, 2010 (No. 24 of 2010) had been expired as such the concerned workman seek the permission from the Regional Labour Commissioner (Central), Lucknow to withdraw the case and to approach the Hon'ble Court on 27.01.2011, which was duly accepted by the Regional Labour Commissioner (Central), Lucknow.*

28. That in pursuance thereof, the workman concerned approaching the Hon'ble Tribunal for the adjudication of the industrial disputes as prevalent between the workman and the employers."

The present claim petition filed u/s 2 (2) of the Act is maintainable and the arguments as raised by the learned counsel for respondent that same is barred by the period limitation is devoid of merit, be rejected.

I have heard the learned counsel for parties and gone through the record.

Before deciding the same it will be appropriate to go through aims and objects of Industrial Dispute Act, 1947 in brief which are that Industrial Disputes Bill was introduced by the Government of India in the Legislative Assembly on the 28th October 1946. After the Select Committee's report on 3rd February 1947, with some amendments, it was passed in March 1947 and became the law from Ist April 1947 repealing the Trade Disputes Act 1929.

While retaining most of the provisions of the earlier law, this Act introduced two new institutions for the prevention and settlement of industrial disputes; works committees consisting of representatives of employers and workers; and machinery for industrial adjudication.

A reference to an industrial tribunal under this Act lies where both parties to any industrial dispute apply for such reference, and also where the appropriate Government considers it expedient so to do. An award of a tribunal has normally to be enforced by the Government and is binding on both parties to the dispute for such periods as may be specified, upto a maximum of one year. This Act seeks to give a new orientation to the entire conciliation machinery.

Another important new feature of the Act is the prohibition of strikes and lockouts during the pendency of conciliation and adjudication proceedings of settlements reached in the course of conciliation proceedings and of awards of industrial tribunals declared binding by the appropriate government.

Rules, orders or notifications requiring the larger industrial establishments to set up works committees were issued by the Government of India and most of the State Governments.

Objectives: General

The objectives of industrial relations and industrial disputes legislation, may be outlined as under:-

(i) Industrial Peace: For prosperity of industry, it is necessary that there be a continuous and growing production which is only possible if (a) there are no interruptions and stoppages in production i.e. absence of disputes, and (b) if the various agencies of production are satisfied and are in a harmonious bent to work. In other words, industrial peace is very necessary for the vitality of industry.

(ii) Economic Justice: All interruptions in production arising out of industrial dispute are really caused by the dissatisfaction of labour with their existing economic condition. The history of labour struggle is nothing but a continuous demand for fair return to labour expressed in varied forms e.g. (a) increase in wages, (b) resistance to decrease in wages, (c) grant of allowances and benefits etc.(***Hariprasad Vs. A.D.Divelkar, AIR 1957 SC 121***)

Social and economic justice which is the bedrock of our Constitution and economic organization also requires that any industrial relations or disputes legislation, to be effective remedial statute, must embrace not only law for regulation of labour relations with capital, process for channelizing collective bargaining methods for negotiation, mediation, conciliation and settlements of industrial conflict, but also a system for giving fair play and justice to labour and removal of economic injustice.

The preamble of the Act states that its main object is to make provision for investigation and settlement of industrial disputes. Viewed in the above background, the Industrial Disputes Act 1947 is a progressive piece of social legislation and is designed to settle the disputes on a new pattern known under the Act as adjudication machinery. The object of all labour legislation is to ensure fair wages and to prevent disputes so that production might not be adversely affected. (***Banaras Ice Factory Ltd. Vs. Its Workmen, AIR 1957 SC 167***)

The purpose of the Act is to provide machinery for a just and equitable settlement by adjudication, (***G. Claridge and Company Ltd. Vs. Industrial Tribunal, Bombay, AIR 1951 Bombay 100***) and amelioration of the conditions of workmen in industry.

Individual and collective industrial disputes: Individual as well as collective disputes may ripen into industrial disputes. The true nature of an individual dispute is that it is a collective dispute. Though a dispute may at the inception be initiated by an individual, yet if it is taken up by the fellow-workers or a union, or a sufficient number of workers, it may assume the collective character and would become an industrial dispute. (**Standard Vacum Oil Co. Errakulam Vs. I.Tribunal, Errakulam 1952-II LLJ 612**). A dispute which continues to retain its individual character cannot be regarded as an industrial dispute. This being the basic law, it is within the competence of the legislature to widen or narrow the coverage of an industrial dispute. The Industrial Disputes Act has also been amended to cover some individual disputes. It is not necessary that a majority should take an industrial dispute. It is

sufficient if a substantial group of workmen take it up. When thus taken, it becomes an industrial or collective dispute.

Individual dispute an industrial dispute: The important amongst the above are however the amendments of 1965. By the Act of 1965, a new Section 2A has been added in Act whereby specified categories of individual disputes are also deemed to be industrial disputes. The section reads as under:

> "*2A. Dismissal, etc of an individual workman to be deemed to be industrial dispute-*
>
> Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute."

This amendment revives, impediment in the way of workman with the necessity that to make an industrial dispute it must be taken up or espoused by substantial section of the workmen or any union of those workmen and gives an individual workman a remedy for security of his service and indirectly freedom to join or not to join any union. Thus, individual disputes could be referred to Tribunal as per Section 2A after 1.12.1965. (**National Productivity Council, 1969-II LLJ 186**).

Thereafter, by Industrial Disputes (Amendment) Act 2010 (Act No. 24 of 2010), Section 2A(a), was renumbered as Sub-section (1) and by the same Act i.e. Act No.24 of 2010 Sub-section (2) and Sub-section (3) have been inserted after Section 2A (1) of Industrial Dispute Act 1947 which came into effect w.e.f. 15.09.2010, which reads as under:

> *"2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute -*
>
> *"(1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.*
>
> *(2) Notwithstanding anything contained in Section 10, any such workman as is specified in sub-Section(1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.*
>
> *(3) The application referred to in sub-Section(2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section(1)."*

Now the core question to be considered is that in view of the facts which are stated hereinabove, that admittedly the services of applicant was terminated on 21.12.2001, thereafter he has filed the present case before this Tribunal u/s 2A of the Act on 28.02.2011 on the grounds as taken by him in his claim petition, is maintainable or barred by the period of limitation as provided u/s 2A(3) of the Act.

Answer to the said question find place in the judgment passed by Hon'ble the Karnataka High Court in ***ITC Infotech India Ltd. vs. Venkataramana Uppada ILR 2016 Karnataka 3041***, relevant potion quoted as under:

> *"19. Keeping the above principles in mind, a reading of Section 2A(3) would lead to an irresistible conclusion that time stipulated for invoking the jurisdiction of the Labour Court or the Tribunal as the case may be, has to be necessarily "before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section (1)." Time limit for making an application to the Labour Court stipulated in sub-Section (3) of Section 2A does not appear to have a bearing to the provisions of sub-Section (2) of Section 2A. In any event right conferred under Section 2A would lapse immediately preceding the date of expiry of three years from the date of dismissal, discharge etc.,. In other words, the limitation of three years prescribed under sub-Section (3) of Section 2A being mandatory, same cannot be condoned by taking recourse to Section 5 of the Limitation Act, 1963 which has no application to the provisions of Industrial Disputes Act, 1947.*

20. It is well settled principle that if an act is required to be performed within a specified time, the same would primarily be mandatory. It has been held in the case of NAZIRUDDIN VS SITARAM AGARWAL reported in AIR 2003 SCW 908 to the following effect:

> *"The Courts jurisdiction to interpret a statute can be invoked when the same is ambiguous. It is well known that in a given case, the Court can iron out the fabric but it cannot change the texture of the fabric. It cannot enlarge the scope of legislation or intention when the language of provision is plain and unambiguous. It cannot add or subtract the words to a statute or read something into it which is not there. It cannot re-write or recast legislation. It is also necessary to determine that there exists a presumption that the legislature has not used any superfluous words. It is well settled that the real intention of legislature must be gathered from the language used."*

21. Thus, in the background of the dicta of the Apex Court in NAZIRUDDIN's case referred to supra, when Section 2A is perused, it would indicate that if the legislature really intended that the period of limitation provided in sub-Section (3) of Section 2A was to be construed as directory, then it would not have prescribed the limitation of three years and it would have used the words "at any time" instead of using the words "before the expiry of three years". Though the words at any time' is found in Section 10(1), same is conspicuously absent in sub-Section(3) of Section 2A which would clearly depict the intention of the legislature namely, it had deliberately imposed limitation period under sub-Section (3) of Section 2A and as such legislature did not employ the words at any time' in the said provision as found in Section 10(1) and in its place, it has specifically incorporated the words before the expiry of three years'. Hence, to interpret the period of limitation found in sub-Section (3) of Section 2A as directory and not mandatory would amount to adding something which is not provided in the provision by the legislature or it would amount to doing violence to the provision, if such interpretation is sought to be made."

And Hon'ble Rajasthan High court in the case of ***Pankaj Swami vs. Rajasthan State Road Transport Corporation & ors. MANU/RH/1788/2019*** after taking into consideration the provisions of sedation 2A(2) & 2A(3) of the Act held as under:

"The provisions are explicit, wherein the workman can approach the Labour Court for adjudication of the dispute in case of discharge, dismissal, retrenchment etc., however, sub-section (3) provides that the application should be made to the Labour Court before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified.

8. The submission made by learned Counsel for the petitioner that as the cause of action arose to the petitioner prior to introduction of the provision of limitation by sub-section (3) the same would have no application is concerned, the submission made is fallacious, inasmuch as, the provision under which the application has been filed by the petitioner i.e. section 2-A(2) of the Act, itself was introduced by the amendment Act of 2010 alongwith the limitation therein and therefore, the provision of limitation which was introduced in the year 2010 alongwith the main provision providing for the limitation would apply with all force and the submission that the same would have no application to the cause of action, which arose prior to 2007, has no basis.

The submissions as made, if accepted, would result in circumstances where if the cause of action has arisen post 2010, the same would be barred, whereas the causes, which arose prior to 2010 like in the year 2007 in the present case and the application is filed after 7 years, the same would never become barred by limitation, such a result is legally untenable.

9. The submission made by learned Counsel for the petitioner that as the petitioner had approached the Conciliation Officer and had raised the dispute before him, where there was no limitation and the petitioner approached the Labour Court only as per the directions of the Conciliation Officer the claim could not be rejected by barred by limitation also does not advance the cause of the petitioner, inasmuch as, the petitioner could have taken advantage of the said position, if the Conciliation Officer had sent a failure report to the appropriate Government who in turn had referred the dispute to the Labour Court. Merely because the Conciliation Officer suggested approaching the Labour Court, which suggestion was accepted by the petitioner, cannot be termed as a reference under section 10 of the Act to the Labour Court.

10. In view of the above discussion in so far as the rejection of the claim of the petitioner by the Labour Court being barred by limitation is concerned, the same cannot be faulted."

And in the case of ***Parthasarathy vs. Souther Pins and Products Pvt. Ltd. and Ors. MANU/TN/6691/2020*** Hon'ble the High Court of Madras has held as under:

"In as much as the notice of termination of the Petitioner in the present case has been made on 06.10.2014 under Section 2-A(2) of the Act after the said amendment has come into force, the limitation of three years prescribed under Section 2-A(3) of the Act would necessarily apply. As such, there is no infirmity in the decision-making process of the Labour Court in refusing to entertain the application made by the Petitioner has time barred. This view is supported by the decisions of this Court in the following cases:-

(i) ITC Infotech India Ltd. v. Venkataramana Uppada (Order dated 03.03.2016 in W.P. No. 27510 of 2015 passed by the High Court of Karnataka)

(ii) Management of Ashok Leyland v. Presiding Officer, Labour Court (Order dated 13.04.2016 in W.P. Nos. 9640 and 9641 of 2016 passed by this Court)

(iii) Ravi Kumar v. Management, Tamil Nadu State Road Transport Corporation (Order dated 11.04.2017 in W.P. (MD) No. 4269 of 2017 passed by the Madurai Bench of this Court)

(iv) K. Settu v. Assistant Engineer, Tamil Nadu Electricity Board (Order dated 20.09.2019 in W.P. No. 8413 of 2019 passed by this Court)

5. A feeble attempt is made on behalf of the Petitioner to suggest that the period of conciliation must be excluded while computing the limitation. It is, no doubt, true that Section 2-A(2) of the Act contemplates such application to be made to the Labour Court after the expiry of 45 days from the date of application to the Conciliation Officer is made. However, it does not require that the conciliation proceedings should have been completed before making that application under Section 2-A(2) of the Act. The words in Section 2-A(3) of the Act are clear enough that the limitation has to be reckoned on the expiry of three years from the date of termination. The Petitioner in the instant case had made the application for conciliation on 12.04.2017 which had also concluded on 27.06.2017, but the Petitioner had not approached the Labour Court after 45 days either from 12.04.2017 or even from 27.06.2017. As such, the contentions made on behalf of the Petitioner cannot be countenanced."

(see also Kandasamy Spinning Mills Private Ltd. vs S. Palanisamy and Ors. MANU/RN/6831/2019

Thus, in view of above said fact, combined reading of section 2A (2) and 2A (3) of the Act, the legal position which emerge out is that if a workman is aggrieved by order of discharge, dismissal, retrenchment or otherwise termination, he may approach the Tribunal within a period three years from dated of passing of order.

Taking into consideration, above said facts and positon of law as well that "if law provides a particular thing that all other modes or methods of doing that thing must be deemed to have been prohibited", the said proposition of law is first held in the case of ***Tylor Vs. Tylor (1875) LR 1 ChD 426*** and adopted later by the ***Judicial Committee in Nazir Ahmed Vs. King Emperor AIR 1936 PC 253*** and thereafter by the Hon'ble Supreme Court in a series of judgments including those in ***Rao Shiv Bahadur Singh & another Vs. State of Vindhya Pradesh AIR 1954 SC 322, State of Uttar Pradesh Vs. Singhara Singh AIR 1964 SC 358, Chandra Kishore Jha Vs. Mahavir Prasad 1999 (8) SCC 266, Dhananjaya Reddy Vs. State of Karnataka 2001 (4) SCC 9 and Gujarat Urja Vikas Nigam Ltd. Vs. Essar Power Ltd. 2008 (4) SCC 755***.

In the case of ***Grasim Industries Ltd. Vs. Collector of Customs, Bombay, (2002) 4 SCC 297***, the Hon'ble Supreme Court held as under:-

"No words or expressions used in any statute can be said to be redundant or superfluous. In matters of interpretation one should not concentrate too much on one word and pay too little attention to other words. No provision in the statute and no word in any section can be construed in isolation. Every provision and every word must be looked at generally and in the context in which it is used. It is said that every statute is an edict of the legislature. The elementary principle of interpreting any word while considering a statute is to gather the mens or sententia legis of the legislature. Where the words are clear and there is no obscurity, and there is no ambiguity and the intention of the legislature is clearly conveyed, there is no scope for the Court to take upon itself the task of amending or alternating the statutory provisions. Wherever the language is clear the intention of the legislature is to be gathered from the language used. While doing so what has been said in the statute as also what has not been said has to be noted. The construction which requires for its support addition or substitution of words or which results in rejection of words has to be avoided".

Hon'ble the Apex Court in the case of ***Bhavnagar University Vs. Palitana Sugar Mill (P) Ltd., (2003) 2 SCC 111***, held as under:-

"24. True meaning of a provision of law has to be determined on the basis of what provides by its clear language, with due regard to the scheme of law.

25. Scope of the legislation on the intention of the legislature cannot be enlarged when the language of the provision is plain and unambiguous. In other words statutory enactments must ordinarily be

construed according to its plain meaning and no words shall be added, altered or modified unless it is plainly necessary to do so to prevent a provision from being unintelligible, absurd, unreasonable, unworkable or totally irreconcilable with the rest of the statute".

In the case of ***Harshad S. Mehta Vs. State of Maharashtra, (2001) 8 SCC 257***, it has been held as under:-

"There is no doubt that if the words are plain and simple and call for only one construction that construction is to be adopted whatever be its effect".

In the case of ***Union of India Vs. Hansoli Devo (2002) 7 SCC 273***, Hon'ble the Supreme Court observed as under:-

"9. It is a cardinal principle of construction of statute that when language of the statute is plain and unambiguous, then the court must give effect to the words used in the statute and it would not be open to the courts to adopt a hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act."

In the case of ***Patango Kadam Vs. Prithviraj Sayajiro Yadav Deshmukh (2001) 3 SCC 594***, took the view:-

"12. Thus when there is an ambiguity in terms of a provision, one must look at well-settled principles of construction but it is not open to first to create an ambiguity which does not exist and then try to resolve the same by taking recourse to some general principle."

Also, Hon'ble the Supreme Court in the case of ***Popat Bahiru Govardhane & others vs. Special Land Acquisition Officer & another (2013) 10 SCC 765*** has held as under:

"16. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute. "A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation."

(See Martin Burn Ltd. v. Corpn. of Calcutta10, AIR p. 535, para 14 and Rohitash Kumar v. Om Prakash Sharma 11.)

Reverting to the facts of the present case, as per admitted position, the services of the workman was terminated on 21.12.2001 and the same has been challenged by him by filing the present industrial dispute on 28.02.2011.

So, keeping in view the above said facts as well as that the workman/Sri Pal (now deceased substituted by his legal heirs Smt. Guddi) cannot derive any benefit from the facts on which he has approached the Tribunal after expiry of period three years from the date of his termination, because his services were terminated on 21.12.2001 and filed the present case on 28.02.2011 u/s 2A (2) of the Act, as such, the claim petition is barred by the period of limitation provided u/s 2A (3) of the Act, liable to be rejected.

Accordingly, the same is rejected on the ground that same is barred by period of limitation as per section 2A (3) of the Industrial Disputes Act, 1947, with liberty to the claimant to pursue its case before appropriate forum as per law.

Award as above.

LUCKNOW.

13.07.2023

Let two copies of this award be sent to the Ministry for publication.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 11 अगस्त, 2023

का.आ. 1313.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मुख्यालय, मध्य कमान (एसीसीटीएस), नेहरू रोड, कैंट, लखनऊ; मुख्यालय, मध्य सब एरिया कमांडर, महात्मा गांधी मार्ग, लखनऊ,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री जय नारायण, कामगार,**के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ पंचाट (संदर्भ संख्या 10/2016) को** जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 20/07/2023 को प्राप्त हुआ था।

[सं. एल-42025/07/2023-168-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 11th August, 2023

S.O. 1313.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 10/2016**) of the **Central Government Industrial Tribunal cum Labour Court–Lucknow,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Head Quarter, Central Command (ACCts), Neharu Road, Cantt, Lucknow ; Head Quarter, Madhya Sub Area Commander, Mahatma Gandhi Marg, Lucknow,** and **Shri Jai Narayan, Worker,** which was received along with soft copy of the award by the Central Government on 20/07/2023.

[No. L-42025/07/2023-168- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR, PRESIDING OFFICER

I.D. No. 10/2016

BETWEEN

Jai Narayan, aged 33 years, son of Shri. Jamuna, R/o C/o Shri. Ram Milan

Prajapati, House No. 818, Shah Keda, Arjun Ganj, Lucknow

AND

1. Head Quarter, Central Command (ACCts), Neharu Road, Cantt, Lucknow-226002

2. Head Quarter, Madhya Sub Area Commander, Mahatma Gandhi Marg. Lucknow 226002

AWARD

Present industrial dispute has been filed by the workman/Jai Narayan u/s 2A (2) of the Industrial Disputes Act, 1947

Accordingly, an industrial dispute No. 10/2016 has been registered on 26.02.2016.

Brief facts of the case:

Facts of the case, as taken by the claimant in his statement of claim is that he was appointed as Gardner on a fixed salary of Rs. 5800/- along with bonus of Rs. 1000/- vide letter No. 1722/I.B./P.R.I. dated April, 2010; and he worked as such for two years and thereafter his services were terminated/retrenched orally.

Accordingly, a prayer has been made that his termination be set aside and he be reinstated/regularized with consequential benefits.

On 01.12.2020, behalf of the respondent, counter affidavit has been filed; wherein it has been submitted that the claimant was never appointed on the post of Gardner; rather he was a contractual worker for up keep and maintenance of valuable plants since 2010 and after completion of contract for the year 2012-2013, the services of claimant came to an end.

From perusal of the order sheet, the position, emerged out that on 09.10.2017 time was granted to the workman to file rejoinder affidavit; but he has not filed the same till date; however, he has not turned up since 05.02.2018.

On 02.11.2018, opportunity to file rejoinder was closed and by order dated 30.09.2022 last opportunity was granted to file workman's evidence on affidavit.

On 15.11.2022, when the matter was taken up in revised cause list, parties remain absent; accordingly, the case was reserved for order.

Findings & Conclusion:

Accordingly, taking into consideration, the above said facts as well as material on record, admitted position which emerged out that after filing of statement of claim no oral/documentary evidence has been filed on behalf of the claimant to support his claim, as such, adjudication case is liable to be dismissed.

So, in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of ***V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194*** as under:

"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."

In the case of ***M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164*** Hon'ble Allahabad High Court has held as under:

"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."

And by the Hon'ble Allahabad High Court in the case of ***District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519****;* wherein it has been held as under:

"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."

Thus, taking into consideration the facts on record that in the present case the workman has not filed any oral/documentary evidence in support of his claim, so the same is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

LUCKNOW.

26th July, 2023.

Let two copies of this award be sent to the Ministry for publication.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 11 अगस्त, 2023

का.आ. 1314.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **परात्मा यू.पी. ग्रामीण बैंक; यू.पी. ग्रामीण बैंक;** के प्रबंधतत्र, संबद्ध नियोजकों और **श्री सुनील कुमार मिश्रा** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **लखनऊ** के पंचाट (09/2020) प्रकाशित करती है।

[सं. एल-39025/01/2023-आई आर (बी-I)-17]

सलोनी, उप निदेशक

New Delhi, the 11th August, 2023

S.O. 1314.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. 09/2020*)*** of the ***Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow*** as shown in the Annexure, in the industrial dispute between the management of **Pratma U.P. Gramin Bank; U.P. Gramin Bank;** and **Sri Sunil Kumar Mishra.**

[No. L-39025/01/2023-IR(B-I)-17]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM –LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR, PRESIDING OFFICER

I.D. 09/2020

Ref. No.-K-10/1-5/2019-IR, Dt. 30.01.2020

BETWEEN

Sri Sunil Kumar Mishra

S/o Sri Jagdamba Prasad

Village Saraiya (Pure Tiwari)

Kherhansa, Tehsil and District- Gonda

272003 (U.P.)

AND

1. G.M.

   Pratma U.P. Gramin Bank

   Head Office, Ram Ganga Vihar

   Vihar Phase-II,

   District- Moradabad.

2. Regional Manager

   U.P. Gramin Bank

   Regional Office, 508, Phoolvila

   Malviya Nagar, District 272003 (U.P.)

3. Branch Manager

   U.P. Gramin Bank

   Branch Kherhansha,

   District Gonda, 271123.

AWARD

By order No. I.D. 09/2020 Ref. No.-K-10/1-5/2019-IR, Dt. 30.01.2020 present industrial dispute has been referred for adjudication to this Tribunal dispute in exercise of the powers conferred by clause (d) of Sub- Section (1) and sub-Section (2A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947) by the Central Government, with following schedule:

> *"Whether the action of management of Sarv U.P. Gramin Bank, Gonda by terminating the services of Sri Sunil Kumar Mishra S/o Sri Jagdamba Prasad with effect from 30.07.2014 without complying the provision of Section 25(f) of ID Act, 1947 is legal and justified? If so, to what relief concerned workman is entitled to and from which date?.*

Accordingly an industrial dispute No. 31/2019 has been registered.

On 13.03.2020 time was granted to claimant to file statement of claim.

On 01.04.2021 an order was passed quoted herein below:-

> *"case called out.*
>
> *Parties absent.*
>
> *From perusal of tracking report, downloaded from the internet, it is evident that the notice has sufficiently been served upon workman and OP No. 1 and 3 whereas notice issued to the OP No. 2 has been received back in the office however, in the interest of justice. One more opportunity is granted"*.

Thereafter on 30.12.2022 an order was passed quoted herein below:-

"Matter taken up in revise list.

Parties absent.

Last opportunity is granted to file statement of claim.

On 27.02.2023 an order was passed, quoted here in below:-

"*Matter taken up in revised list.*

Parties absent.

In spite of last opportunity claim is not filed.

List on 23.05.2023 for ex-parte hearing. Notice to parties.

In spite of notice when the matter was taken up. On 23.05.2023 neither claimant/legal representative appeared on his behalf nor claim statement was filed.

Accordingly I have heard learned counsel for respondent and perused on record.

Taking into consideration the fact till date no statement of claim has been filed by the claimant in order to establish his claim as per the reference dated 30.01.2020.

So in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of V.K. Industries Vs. Labour Court (I) and others 1981 (29) FLR as under:-

"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raised a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief".

In the case of M/s Uptron powertronics Employees' Union, Ghaziabad through its Secretary V. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164 Hon'ble Allahabad High Court has held as under:-

"*The law has been settled by the Apex Court in case of Shankar Chakravarti Vs Britannia Biscuit Co. Ltd., V.K. Raj Industries V. Labour Court and Ors., Airtech Private Limited Vs. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman reference is bound to be answered by the Court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish and allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."*

And by the Hon'ble Allahabad High Court in the case of District Administrative Committee U.P. P.A. C.C.S.C. Services V. Secretary-cum- G.M. District Co-Operative Bank Ltd. 2010 (126) FLR 519; wherein it has been held as under:-

"*The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed".*

As the workman had not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief:-

Lucknow

Date: 11.07.2023.

Let two copies of this award be sent to the Ministry for publication.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 11 अगस्त, 2023

का.आ. 1315.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **नॉर्दर्न रेलवे; मेसर्स शाहिद फैज़ान अहमद एंड ब्रदर्स** के प्रबंधतत्र, संबद्ध नियोजको और **श्री राज कुमार** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **लखनऊ** के पंचाट (10/2012) प्रकाशित करती है।

[सं. एल-12025/01/2023-आई आर (बी-I)-73]

सलोनी, उप निदेशक

New Delhi, the 11th August, 2023

S.O. 1315.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. 10/2012)** of the ***Cent. Govt.Indus. Tribunal-cum-Labour Court Lucknow*** as shown in the Annexure, in the industrial dispute between the management of Prathama **Northern Railway; M/s Shahid Faizan Ahmad & Brothers** and **Shri Raj Kumar.**

[No. L-12025/01/2023-IR(B-I)-73]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT

LUCKNOW

PRESENT

JUSTICE ANIL KUMAR, PRESIDING OFFICER

I.D. No. 10/2012

BETWEEN

Raj Kumar S/o Sri Ram Kailash

Vill. Budehari, PO– Ram Sanehi Ghat,

Distt. Barabanki

Vs

1. General Manager

Northern Railway, Baroda House,

New Delhi 110001.

2. Divisional Rail Manager,

Northern Railway, Hazratganj

Lucknow 226001.

3. M/s Shahid Faizan Ahmad & Brothers

654, Begum Ka Makbara, Faizabad (UP) 224001

AWARD

None present on behalf of the claimant.

Heard Sri U.K. Bajpai, learned counsel for respondent and perused the record.

Brief facts of the case:

Present industrial dispute has been filed by the claimant/workman before this Tribunal as per the provisions of section 2A(2) of the Industrial Disputes Act, 1947 (14 of 1947).

On 16.01.2012 the claimant filed a claim petition, as per the pleading made by claimant in his claim petition, that he was appointed/engaged by the opposite party No. 1 through the contractor, M/s Shahid Faizan & Brothers (Opposite part No.3) for doing work of Driver Box handling under the opposite party No. 2, DRM, NR, Lucknow; and for said purpose gate pass was issued by the respondent no. 2, given by the respondent No. 3.

On 25.04.2009 without giving any notice, his services were terminated/retrenched.

Accordingly, it is prayed by the claimant that as he has continuously worked from 05.10.2003 to 25.04.2009 i.e. for six years, thus, completed 120 days' continuous service, so as per Railway Establishment Rules he is entitled for temporary status; however, without giving the same his services were terminated.

In view of the said factual back ground claimant, prays for following relief:

"(क) दिनांक *25.04.2009* से की गयी सेवा समाप्ति आदेश को अवैध ठहराये।

(ख) सेवा की निरन्तरता के साथ कार्य पर बहाल कराये ।

(ग) बेकारी काल का वेतन व अन्य अनुमन्य हितलाभ भी दिलाये।

(घ) वाद का परिव्यय भी दिलाये।"

Case of respondent:

On 17.05.2011, written statement was filed on behalf of respondent No. 1 & 2 (railway authorities).

Respondents No. 1 & 2 in their written statement, in brief, submitted that workman was never engaged by the respondent no 1 & 2 but was a casual worker through contractor, admitted by the claimant in himself in the claim statement.

In the written statement it was also pleaded by respondent 1 & 2 that Railway Establishment Rules and D & AR Rules, 1968 are not applicable in the case of applicant, as he was not engaged by the railway administration, so, he cannot claim any benefit from the provisions/rules in respect to the period in which he was engaged as casual labour by the contractor.

On behalf of respondent no. 3 a written statement, was filed on 16.10.2012 (M-10), it is categorically pleaded that the claimant was never employed/engaged by respondent no 3 as well as by respondent no. 1 & 2 and respondent no. 3 never got any work order or Form-V issued for appointment/engagement of claimant on the post of Box Porter by the railway authorities. It is also pleaded that in department there is no post of Box Porter.

On 14.05.2013 workman/claimant filed rejoinder statement, denying averments as made in the written statement filed by respondent no. 1 & 3.

On 04.03.2014 in support of his case, the claimant has field certain documents, for example various bills submitted by M/s Mo. Shahid Faizan & Brothers to the railway authorities in respects to the work performed by the persons/workers who have been engaged for transportation of drivers Khana/Line Boxes etc. with respondent no. 1 & 2.

In addition to the above said facts the claimant also filed a photo copy of notary affidavit dated 03.07.2009 of one Sri Lala Singh in order to establish that the claimant was working with the respondents.

Accordingly, it has been pleaded by the claimant that M/s Mo. Shahid Faizan & Brothers has engaged the workman as contractual employee on 05.10.2003, in said capacity, the said fact established from affidavit of Lala Singh who was also engaged by contractor, M/s Mo. Shahid Faizan & Brothers; however, no reply or any documents have been submitted to deny the said fact either by the respondent no 1 & 2 or by respondent no. 3.

However, no evidence has been filed either on behalf of the workman or on behalf of the respondents in order to prove his case in spite of due notice.

Submissions on behalf of the respondent:

Sri U.K. Bajpai, learned counsel for the respondent while pressing the case of respondent placed reliance on the facts as stated in the written statement and also on award given by a co-ordinate bench of this Tribunal dated 04.10.2018 in I.D. Case No. 43/2012 Pradeep Kumar vs. GM, Norther Railway & others, notified on 23.10.2018 by the Central Government, relevant portion of the same reads as under:

> *"2. The case of the workman, Pradeep Kumar, in brief, is that he was appointed as Box Porter with opposite party No. 02 against the permanent vacant post; and worked accordingly w.e.f. 01.09.2003 to 25.04.2009 continuously when his services have been terminated without any notice. It is submitted by the workman that the opposite party No. 02 has kept opposite party No. 03 to escape from the responsibilities and labour laws though he performed duties of opposite party No. 2 under its directions. He also submitted that he was issued a gate pass by the opposite party No. 03, under directions of the opposite party No. 02, which used to be taken back at the end of the year. The workman has stated that he after continuous service of 120 days was entitled for temporary status and other service benefits under service Rules. Accordingly, the workman has prayed for reinstatement with full back wages with continuity in service.*

3. The opposite party No. 01 & 02 has disputed the claim of the workman by filing its written statement; wherein it has mentioned that the workman had never been engaged/appointed by the opposite party No. 01 & 02; moreover the railway management entered into an agreement with the opposite party No. 03 for executing the day to day casual work at railway stations; and accordingly, the railway administration is not liable for any claim made by the workman as the railway administration neither engaged the workman nor did it terminate him; and also that it did not make any violation of any labour law or engaged in any kind of unfair labour practice; hence it has been prayed by the opposite party No. 1 & 2 that the claim of the workman be rejected without any relief to him being devoid of merit.

4. The opposite party No. 03 has also disputed the claim of the workman with submission that neither any post of Box Porter was ever vacant nor the opposite party No. 3 ever received work order or Form-V from railway administration nor the workman was ever appointed with the opposite party No. 1, 2 & 3 on the post of Box Porter; hence there is no question of his termination. It has submitted that the workman was never issued any gate pass by the opposite party No. 3 and various benefits such as salary, weekly holiday, Provident Fund and medical facilities are available to the regularly appointed employee who are appointed after adopting due procedure; and the workman is not entitled for the same as there was no violation to the provisions of I.D. Act, 1947. Accordingly, the opposite party No. 03 has prayed that the claim of the workman be rejected.

5. The workman has filed its rejoinder wherein he has denied the counter allegations of the opposite parties reiterating the averments already made in the statement of claim.

6. The opposite party No. 03 did not turn up after filing of its written statement.

7. The workman and opposite party No. 01 & 02 filed photocopies of documents in support of their cases. The workman examined himself; whereas the opposite party No. 01 & 02 examined Shri P. K. Singh, ADME (O&F), Northern Railway, Lucknow in support of their respective stands. The parties availed opportunity to cross-examine the witnesses of each other apart from forwarding oral arguments.

8. Heard the authorized representatives of the parties and perused entire evidence available on record.

9. The authorized representative of the workman has argued that he was appointed as Box Porter with opposite party No. 02 against the permanent vacant post; and worked accordingly w.e.f. 01.09.2003 to 25.04.2009 continuously when his services have been terminated without any notice or notice pay or assigning any reason thereof in contravention to the provisions of Section 25 F of the I.D. Act, 1947. The learned authorizes representative of the workman has also asserted that the workman after continuous service of 120 days was entitled for temporary status and other service benefits under service Rules. He has relied upon

(i) The Judgment and order dated 15.02.2013 of Hon'ble Apex Court in Writ Petition (Civil) No. 433 of 1998

(ii) Judgment dated 27.01.1999 of Hon'ble Calcutta High Court in Sheikh Jahangir Ali & others vs Calcutta Port Trust & others.

(iii) (2006) 12 SCC 380 District Rehabilitation Officer & others vs Jay Kishore Maity & others.

(iv) (2003)11 SCC 590 A.I. Railway Parcel & Goods Porters' Union vs Union of India & others.

10. In rebuttal, the opposite party No. 01 & 02's representative has contended that the workman is contractor's employee as the opposite party has undergone a contract with the M/s Industrial Security Services for supply of security personnel; and accordingly the workman was one of the security guards provided by M/s Industrial Security Services and the said contractor/agency was duly paid for it, which in turn paid salary to the workman. It has been urged that the management of opposite party No. 01 neither appointed the workman nor terminated his services; rather his employment was regulated by M/s Industrial Security Services and the same came to an end with the end of contract with the agency; hence there was no violation of provisions of the Industrial Disputes Act, 1947. He has relied upon:

(i) 2017 LLR 940, the Secretary, BSNL, Contractor Mazdoor Union & others vs. The Chief General Manager, BSNL.

(ii) 2018 LLR 758 Civil Aviation Training College, Bamrauli vs Mohan Lal Prajapati.

11. I have given my thoughtful consideration to the rival contentions of the parties and perused entire evidence available on file.

12. The workman has come up with a case that he had been appointed by the opposite party No. 2 on the clear vacancy of Box Porter and the management of railways engaged the opposite party No. 3 in order to deprive the workman of his legitimate rights. It has also been contended by the workman that keeping in view the long and continuous service with the opposite party No. 1 & 02 he was entitled for grant of temporary status and other consequential benefits admissible to the employees with temporary status under Railway Establishment Rules; but on the contrary the management of Railways has acted in utter disregard to the norms and has terminated his services without any reason or rhyme or any notice or any notice pay in lieu thereof, which is voilative of the provisions of the Section 25 F of the ID Act, 1947. It is also the case of the workman that keeping in view the pronouncement of the Hon'ble Apex Court regarding regularization/absorption of Box Porters with railway administration, he was also entitled for regularization/absorption into the services of the Railways. The workman has filed photocopy of gate pass/Identity card, purported to be issued by opposite party No. 3.

13. Per contra, the opposite party No.1 & 2 has come forward with a clear cut case that the management of railways neither appointed the workman in any capacity nor there arises any question of his termination or violation of any of the provisions of the Industrial Disputes Act, 1947. It is the case of the management of railways that the management of railways entered into an agreement with M/s Shahid FAizan Ahmed & Brother's for transportation of driver line boxed from Charbagh & Alamnagar station and accordingly, the workman's services were availed by the said contractor/opposite party No. 3 by engaging him; and was paid accordingly. Thus, there was no direct employer-employee relationship between the management of railways and the workman, therefore, the management of railways is not liable to the workman in any way as claimed before this Tribunal. The opposite party No. 01 & 02 has filed photocopy of the contract dated 22.01.2009 entered between the railway administration and the opposite party No. 3.

14. Moreover, the opposite party No. 03 has also rebutted the claim of the workman with submissions that the workman had never been appointed by any of the opposite parties and he was not entitled for any of the benefits as claimed by him as they were admissible to the regularly appointed employees of the railways. It also mentioned that there was no vacancy of the Box Porter nor any such post was advertised by the railways or any recruitment was done in pursuance thereof. However, the opposite party No. 03 did not turn up after filing its written statement. But its absence does not automatically create any legal rights in favour of the petitioner workman.

15. Having gone through the respective pleading of the parties and entire documentary evidence available on record it comes out that the railway administration entered into a contract with the opposite party No. 03 viz. M/s Shahid Faizan Ahmed & Brother's to carry out the working according to the specification provided in the contract for a period or two years only; and in consequence thereto; workman had been engaged by the opposite party No. 03 viz. M/s Shahid Faizan Ahmed & Brother's for transportation of Driver line boxes from Charbagh & Alam Nagar station railway platform.

The workman has examined himself in support of his case and during his cross-examination has stated that he had been appointed by the contractor on the orders of the railway officer; but he could not show any such order of the railway officer. He admitted that the railway neither appointed nor terminated his services; rather he stated that the Contractor, Shahid Faizan terminated him. He also admitted that he had not filed any such document which goes to show that he continuously worked from 2003 to 2009 with the railways.

On contrary, the management of the railway has examined Sri P. K. Singh, ADME (O&F), who stated in his cross-examination that contractor is being allotted 'work order', which is for a specific time period; however the time period keeps on changing with reference to the condition and this may be for 6 months, some time for 01 year and sometimes it may be for 02 years also, depending on the nature of the work. He stated that Indian Railway does not have direct relation with any Box Porter and the contractor is fully responsible for quality of work. He further stated that the contractor is directly related with the workman and Railways has no role in the appointment of Box Porter by the contractor; nor does the railway issues any identity card to any of the Box Porter engaged by the contractor. The management witness specially stated that since the contract used to be time bound, therefore, on its expiry, the contract is issued again; hence there is no relation with the railways regarding regularization.

16. During course of the oral submissions the learned authorized representative of the workman has stressed over the order of Hon'ble Apex Court's Judgment and order dated 15.02.2013 of Hon'ble

Apex Court in Writ Petition (Civil) No. 433 of 1998 and has submitted that the case of the workman is covered with the said order of the Hon'ble Apex Court and since the railway management has given appointment/regularized other box porters in light of above order dated 15.02.2013 of the Hon'ble Suprem Court, therefore the workman is also entitled for regularization accordingly. The learned authorized representative of the management of railway has vehemently opposed the same. Having taken into account the contentions of the rival parties and perusal of the Judgment and order dated 15.02.2013 of Hon'ble Apex Court in Writ Petition (Civil) No. 433 of 1998 and various letters filed by the workman, obtained through Right to Information Act, 2005, it appears that the Judgment and order dated 15.02.2013 of Hon'ble Apex Court in Writ Petition (Civil) No. 433 of 1998 was in personam and not in rem, therefore, the directions of the Hon'ble Supreme Court shall apply to the workmen who approached the Hon'ble Sureme Court; and since the workman never approached the Hon'ble Supreme Court, therefore, the Judgment and order dated 15.02.2013 of Hon'ble Apex Court in Writ Petition (Civil) No. 433 of 1998 is of no use for him.

Hon'ble Calcutta High Court in 2017 LLR 940, the Secretary, BSNL, Contractor Mazdoor Union & others vs. The Chief General Manager, BSNL has held that admission of the workmen that they were working under their respective contractor, is sufficient to establish that they were having no employer-employee relationship with BSNL management; hence, the workmen are not entitled to seek any relief from BSNL management. Hon'ble High Court has observed as under:

"The ratio of the Division Bench in the case of the Binoy Bhushan Chakraborty (supra) is that when a workman is engaged by a contractor to carry out some work at any establishment of BSNL, if such workman is retrenched by the contractor while working under him, BSNL cannot be regarded as employer of such workman with the meaning of "employer" as defined in the Industrial Disputes Act nor such workman can be held to be a "workman" under BSNL within the meaning of the said term, as defined under the said Act and such workman cannot claim to be absorbed in the service of BSNL."

Hon'ble Allahabd High Court in 2018 LLR 758 Civil Aviation Training College, Bamrauli vs Mohan Lal Prajapati has observed as under:

"Since, prima facie there was no employment of the respondent with the petitioner there could not have been any termination. I am therefore, of the definite opinion that the Labour Court decided the dispute erroneously. It had no jurisdiction to decide the matter. In fact, when the workman was not at all a workman as had been stated by the petitioner and as was also clear from the averment made in paragraph-10 of the counter affidavit the respondent/workman who had been engaged by a contractor had the remedy to file a claim under the Contract Labourer (Regulation and Abolition) Contract Rules, 1971 (hereinafter called the 1971 Rules)"

17. It is well settled that if a party challenges the legality of order, the burden lies upon him to prove illegality of the order and if no evidence is produced, the party invoking jurisdiction of the court must fail. In the present case burden was on the workman to set out the grounds to challenge the validity of the termination and to prove that the alleged termination by railways. It was the case of the workman that he had been appointed on the post of Box Porter under the opposite party No. 02 and had worked continuously w.e.f. 01.09.2003 to 25.04.2009, when his services have been terminated without any notice by the railways. This claim has been denied by the railway management; therefore, it was for the workman to lead evidence to show that he had in fact worked continuously for the claimed duration before his alleged termination. In (2002) 3 SCC 25 Range Forest Officer vs S.T. Hadimani Hon'ble Apex Court has observed as under:

"It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to the conclusion that a workman had, in fact, worked for 240 days or order or record of appointment or engagement for that period was produced by the workman. On this ground alone, the award is liable to be set aside."

18. Analyzing its earlier decisions on the aforesaid point Hon'ble Apex Court has observed in 2006 (108) FLR R.M. Yellatti & Asstt. Executive Engineer as follow:

"It is clear that the provisions of the evidence Act in terms do not apply to the proceedings under section 10 of the Industrial Disputes Act. However, applying general principles and on reading the aforestated judgments we find that this Court has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked 240 days in a given year. This burden is discharged only upon the workman stepping in the witness box. This burden is discharged upon the workman

adducing cogent evidence, both oral and documentary. In cases of termination of services of daily wages earner, there will be no letter of appointment or termination. There will also be no receipt or proof of payment. Thus, in most cases, the workman (claimant) can only call upon the employer to produce before the Court the nominal muster roll for the given period, the letter of appointment or termination, if any, the wage register, the attendance register etc. Drawing of adverse inference ultimately would depend thereafter on facts of each case. The above decisions however make it clear that mere affidavits or self serving statements made by the claimant/workman will not suffice in the matter of discharge of the burden placed by law on the workman to prove that he had worked for 240 days in a given year. The above judgments further lay down that mere non production of muster rolls per se without any plea of suppression by the claimant workman will not be the ground for the tribunal to draw an adverse inference against the management."

In the present case the workman has come up with a case that he had been appointed on the post of Box Porter under the opposite party No. 02 and thus, worked continuously w.e.f. 01.09.2003 to 25.04.2009, but has not produced any document neither original nor photocopy in support of his pleadings . The burden was on the workman to show by the way of cogent evidence that there was employee-employer relationship; and he actually worked for claimed duration; but he failed to do so as he could not bring this fact on record. In view of denial of the management regarding his claim, the workman has nothing to support his version, except photo copy of the so called identity card, purported to be issued by the opposite party No. 03 i.e. the contractor viz. M/s Shahid Faizan Ahmed & Brother's. Further, the opposite party No. 03, the contractor has also refuted the claim of the workman regarding his appointment with the railways. Hence, the workman could not establish that there was any employee and employer relationship between him and the opposite party No. 01 & 02 i.e railways.

19. On the other hand the management of the railways has well proved its case by filing copy of the contract with the M/s Shahid Faizan Ahmed & Brother's for supply of labourers for transportation of Driver line boxes at railway platform.

Mere pleadings are no substitute for proof. Initial burden of establishing the fact of continuous work on the date of alleged termination was on the workman but he failed to discharge the above burden. There is no reliable material for recording findings that the workman had been appointed by the railway administration on the post of Box Porter or he worked continuously with the opposite party No. 01 & 02; and the alleged unjust or illegal order of termination was passed by the management of opposite party No. 01 & 02 or any provisions of the Industrial Disputes Act, 1947 had been violated by them.

20. Thus, in view of the facts and circumstances of the case and discussions made herein above I am of considered opinion that the workman could not be able to prove through cogent evidence that there was a relationship of employee and employer between him and the opposite party No. 01 & 02; rather from the evidence adduced it is established that he was and an employee of the contractor viz. M/s Shahid Faizan Ahmed & Brother's, therefore, the workman could not be granted the relief of reinstatement or any other relief sought by the workman against the opposite party No. 01 & 02.

21. Award as above."

It has also been submitted by the learned counsel for respondent that award dated 04.10.2018 published on 23.10.2018, passed in ID case no. 43/2012, attained finality as the same has not been challenged by the workman before any higher authority, and as the present case stands on the same footing, liable to be dismissed.

Further, present case, the workman was engaged as contractual employee by the respondent no. 3 M/s Mo. Shahi Faizan & Brothers 05.10.2003; and his services were terminated on 25.04.2009.

So far as the engagement of Sri Raj Kumar, claimant on the post of Box Porter as contract worker of M/s Mo. Shahi Faizan & Brothers from the material on record especially from the affidavit given by Sri Lala Singh who was also working on the post of Box Porter under contractor M/s Mo. Shahi Faizan & Brothers and clearly established that he was engaged as a contract employee by the contractor, M/s Mo. Shahi Faizan & Brothers.

Further, on behalf of the claimant there is no document on record in order to establish and prove that was engaged by respondent no. 1 & 2 only a bald statement has been made in claim statement that was issued gate pass by respondent no. 3 on the direction of respondent no. 2.

Even no pleading, documentary or oral evidence have been adduced by the claimant that prior to termination of services on 25.04.2009, he has continuously worked for 120 days continuously for four months with the respondent no. 2 (DRM, NR, Lucknow) by virtue of which he can have a right to get temporary status.

As per the settled preposition of law, initially onus on this regard lies on the claimant that he must establish the said fact by any material, then the onus, shifted on respondents to contradict the said facts.

Further, the present case is standing on the same footing; rather the facts of the present case are identical to which are involved in the case of Sri Pradeep Kumar who has filed ID case No. 43/2012, dismissed by award dated 04.10.2018, quoted hereinabove, which has attained finality as the same has not been challenged before any higher court, so, a judgment rendered by a co-ordinate bench/Tribunal on the same facts and circumstances as of the present case, I am bound by the "Award" passed in the case of *Pradeep Kumar (supra)* and cannot take a different view as taken in the *ID case No. 43/2012 Pradeep Kumar (supra)*.

Because Hon'ble Apex Court in the case of ***Workmen v. Straw Board Mfg. Co. Ltd. (1974) 4 SCC 681*** held as under:

> *"It is now well-established that, although the entire Civil Procedure Code is not applicable to industrial adjudication, the principles of res judicata laid down under Section II of the Code of Civil Procedure, however, are applicable, wherever possible, for very good reasons. This is so since multiplicity of litigation and agitation and re-agitation of the same dispute at issue between the same employer and his employees will not be conducive to industrial peace which is the principal object of all labour legislation bearing on industrial adjudication."*

And in the case of ***Burn & Co. Ltd. v. Employees AIR 1957 SC 38*** has held as under:

> *"Likewise, where an award was passed in earlier proceedings, it was held that the said award was binding on the parties and the subsequent proceedings initiated by the employees were barred."*
>
> *(See also Workmen v. Hindustan Lever Ltd. AIR 1984 SC 516)*

Moreover, in the case of ***Gopabadndhu Biswal v. Krishna Chandra Mohanty & Ors. (1998) 4 SCC 44*** Hon'ble the Supreme Court said *precedent is an indispensable foundation upon which to decide what is the law and its application in individual cases. It provides a basis for orderly development of legal rules*, that is to say that if certain decision is taken then the said decision if attains finality is a precedence on other matters which on same footing and facts and no different view can be taken which have been taken in earlier judgment.

For the foregoing reasons, present adjudication case stands on the same facts and footing as of Pradeep Kumar (supra), decided by this Tribunal vide order dated 04.10.2018, so, this Tribunal cannot take a different view, as such, the present case, filed by claimant/workman is liable to be dismissed, having no merit.

Accordingly, dismissed; resultantly the workman is not entitled to any relief.

Award as above.

LUCKNOW.

26th June, 2023.

Let two copies of this award be sent to the Ministry for publication.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 14 अगस्त, 2023

का.आ. 1316.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **नॉर्दर्न रेलवे; मेसर्स शाहिद फैज़ान अहमद एंड ब्रदर्स** के प्रबंधतत्र, संबद्ध नियोजकों और **श्री दिनेश चौरसिआ** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **लखनऊ** के पंचाट **(15/2015)** प्रकाशित करती है।

[सं. एल-41012/12/2015-आई.आर (B-I)]

सलोनी, उप निदेशक

New Delhi, the 14th August, 2023

S.O. 1316.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. 15/2015***)* of the ***Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow*** as shown in the Annexure, in the industrial dispute between the management of Prathama **Northern Railway; M/s Shahid Faizan Ahmed & Brothers** and **Shri Dinesh Chorasia.**

[No. L-41012/12/2015-IR(B-I)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR, PRESIDING OFFICER

I.D. No. 15/2015

Ref. No. L-41012/12/2015-IR(B-I) dated: 20.04.2015

BETWEEN

Shri Dinesh Chorasia, S/o late Shri Ganesh Prasad

548/197, Pal Aatta Chakki, Surya Nagar, Rajajipuram, Lucknow 226017

AND

1. The Divisional Railway Manager Northern Railway, New Delhi-110001
2. The Divisional Railway Manager, Northern Railway

   DRM Office, Hajratganj, Lucknow
3. M/s. Shahid Faizan Ahmed & Brothers

   654 Begum ka Makbara, Janpad, Faizabad

AWARD

By order No. L-41012/12/2015-IR(B-I) dated: 20.04.2015 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

"क्या मैसर्स शाहिद फैजान अहमद एंड ब्रदर्स, फैजाबाद व प्रबंधन, उत्तर रेलवे, लखनऊ द्वारा श्री दिनेश चौरसिया पुत्र स्व. गणेश प्रसाद को दिनांक 25-01-2013 को नौकरी से निकाला जाना न्यायोचित एवं बैध है? यदि नहीं तो वादी किस राहत को पाने का हक़दार है?"

Accordingly, an industrial dispute No. 15/2015 has been registered on 13.05.2015.

When workman did not turn to file statement of claim the reference was adjudicated vide award dated 28.04.2017 and the same was notified vide dated 24.05.2017; however, the said award was recalled and, Industrial dispute was restored; and workman was afforded an opportunity to file statement of claim.

Brief facts of the case:

Facts of the case, in brief are that claimant was appointed as Box Porter with respondent no. 2 on 01.04.2009 and he worked continuously as such till the date of his termination on 25.04.2013.

Accordingly, a prayer has been made that his termination be set aside and he be reinstated with consequential benefits.

On 07.06.2019, behalf of the respondent 1 & 2, written statement has been filed; wherein it has been submitted that the claimant was never appointed on the post of Box Porter; rather he was a contractual worker, engaged through respondent no. 3/M/s Shahid Faizan Ahmad & Brothers and there is no relationship of employee and employer between the claimant and the respondent no. 1 & 3.

From perusal of the order sheet, the position, emerged out that on 07.06.2019 time was granted to the workman to file rejoinder affidavit; but he has not filed the same till date; however, he has not turned up since 27.02.2020.

On 27.02.2020, opportunity to file rejoinder was closed.

On 14.11.2022, when the matter was taken up in revised cause list, neither workman nor his legal representative was present.

Sri U.K. Bajpai, learned counsel for respondent no. 1 & 2 was present.

Findings & Conclusion:

I have heard learned counsel for respondent no. 1 & 2 and gone through record.

Thus, taking into consideration, the above said facts as well as the fact that after filing of statement of claim no oral/documentary evidence has been filed on behalf of the claimant to support his claim, as such, the adjudication case is liable to be dismissed.

So, in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of ***V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194*** as under:

> *"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."*

In the case of ***M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164*** Hon'ble Allahabad High Court has held as under:

> *"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."*

And by the Hon'ble Allahabad High Court in the case of ***District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519****;* wherein it has been held as under:

> *"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."*

Thus, taking into consideration the facts on record that in the present case the workman has not filed any oral/documentary evidence in support of his claim, so the same is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

LUCKNOW.

26th July, 2023.

Let two copies of this award be sent to the Ministry for publication.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 14 अगस्त, 2023

का.आ. 1317.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **कॉरपोरेशन बैंक** के प्रबंधतत्र, संबद्ध नियोजको और **कॉरपोरेशन बैंक वर्कर्स गिल्ड** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **लखनऊ** के पंचाट (31/2019) प्रकाशित करती है।

[सं. एल-12011/43/2018- आई.आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 14th August, 2023

S.O. 1317.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. 31/2019)** of the ***Cent. Govt. Indus. Tribunal-cum-Labour Court Lucknow*** as shown in the Annexure, in the industrial dispute between the management of Prathama **Corporation Bank** and **Corporation Bank Workers Guild.**

[No. 12011/43/2018-IR (B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM–LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR, PRESIDING OFFICER

I.D. 31/2019

Ref. No.-L-12011/43/2018-IR (B II), Dt. 28.11.2018.

BETWEEN

The Zonal Secretary

Corporation Bank wokers Guild,

11, B.N. Road, Kesarbagh, Main Branch,

Lucknow-226001

AND

The Deputy Chief Manager

Corporation Bank, Zonal Office

1-IF, near-Nisantganj, Gomti Bridge, Gokhale, Marg, Lucknow

AWARD

By order No. L-12011/43/2018-IR(B II), Dt. 28.11.2018 present industrial dispute has been referred for adjudication to this Tribunal dispute in exercise of the powers conferred by clause (d) of Sub- Section (1) and sub-Section (2A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947) by the Central Government, with following schedule:

> *"Whether the action of the management of DGM, Corporation Bank Lucknow in allegedly transferring Sri Santosh Sambal working at Ram Sanehi Ghat to Viraj Khand and Sri D.K. Singh to Khurdahi Bazar from Bhetua violates the transfer policy and Seniority list of the management? If so, what relief the workman are entitled to?".*

Accordingly an industrial dispute No. 31/2019 has been registered.

On 14.10.2018 an order was passed which is quoted herein below:-

> "*Case called out.*
>
> *No Successor of the PO is appointed*
>
> *Put up on 13.01.2020".*

Thereafter on 16.09.2022 an order was passed quoted herein below:-

> *"case called out.*
>
> *Parties absent. Last opportunity granted for CS.*

On 28.02.2023 an order was passed which quoted here in below:-

> "*Matter taken up in revised list.*
>
> *Parties absent.*
>
> *Last opportunity is granted to claimant to file statement of claim, failing which the case proceed ex-parte".*

In spite of notice neither clamant/or his legal representative appeared nor any statement of claim was filed when the case was taken up on 25.03.2023.

Accordingly I have heard learned counsel for respondent and perused on record.

Taking into consideration the fact till date no statement of claim has been filed by the claimant in order to establish his claim as per the reference dated 28.11.2018

So in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of V.K. Industries Vs. Labour Court (I) and others 1981 (29) FLR as under:-

"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raised a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief".

In the case of M/s Uptron powertronics Employees' Union, Ghaziabad through its Secretary V. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164 Hon'ble Allahabad High Court has held as under:-

"*The law has been settled by the Apex Court in case of Shankar Chakravarti Vs Britannia Biscuit Co. Ltd., V.K. Raj Industries V. Labour Court and Ors., Airtech Private Limited Vs. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman reference is bound to be answered by the Court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish and allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."*

And by the Hon'ble Allahabad High Court in the case of District Administrative Committee U.P. P.A. C.C.S.C. Services V. Secretary-cum- G.M. District Co-Operative Bank Ltd. 2010 (126) FLR 519; wherein it has been held as under:-

"*The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed".*

As the workman had not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief:-

Lucknow

Date: 11.07.2023

Let two copies of this award be sent to the Ministry for publication.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 14 अगस्त, 2023

का.आ. 1318.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **मेसर्स आर. के. एसोसिएट्स; इंडियन बैंक** के प्रबंधतत्र, संबद्ध नियोजकों और **श्री जीतेन्द्र चतुर्वेदी** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **लखनऊ** के पंचाट **(67/2021)** प्रकाशित करती है।

[सं. एल-39025/01/2023- आई.आर (बी-II)-18]

सलोनी, उप निदेशक

New Delhi, the 14th August, 2023

S.O. 1318.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. 67/2021***)* of the ***Cent. Govt. Indus. Tribunal-cum-Labour Court Lucknow*** as shown in the Annexure, in the industrial dispute between the management of Prathama **M/S R.K. Associates; Indian Bank** and **Shri Jitendra Chaturvedi.**

[No.L-39025/01/2023-IR (B-II)-18]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL–CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR, PRESIDING OFFICER

I.D. No. 67/2021

No. K-10/1-2/2021-IR dated 27.05.2021

BETWEEN

Shri Jitendra Chaturvedi S/o Shri Munna Lal Chaturvedi, R/O Gazipur, Balrampur, Faizullaganj, Lucknow-226013.

AND

1. The Proprietor, M/S R.K. Associates, 631/106, Ajay Nagar,

Surendra Nagar, Luckno

2. The Assistant General Manager, Indian Bank (formerly known as

Allahabad Bank) Staff College, Sector 21, Ring Road,

Indira Nagar, Lucknow-226016.

AWARD

By order No. K-10/1-2/2021-IR dated 27.05.2021 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

> *"Whether the action of management of Indian Bank Staff College, Lucknow in terminating the services of Shri Jitendra Chaturvedi S/O Shri Munna Lal Chaturvedi, Receptionist w.e.f. 01.07.2020 who was engaged through contractor M/s R.K. Associates, without following the provisions of Section 25 F of L.D. Act, 1947, is Legal and justified? If not, to what relief the workman is entitled to and from which date?"*

Accordingly, an industrial dispute No. 67/2021, registered before this Tribunal on 02.06.2021.

On 17.08.2021, on behalf of the claimant, statement of claim was filed praying therein that he was appointed as receptionist in the Allahabad Bank/Indian Bank Staff College, Lucknow through respondent no. 1, who is a contractor in the year 2019; however, his services were disengaged/retrenched w.e.f. 01.07.2020.

Further the claimant has prayed in view of the facts stated in claim petition that as he has completed 240 days in a calendar year so his termination/retrenchment be set aside and he may also be given amount as prayed by him in the relief.

On behalf of the respondent no. 1 i.e. R.K. Associates, written statement has been filed on 28.10.2021, inter alia stating therein that that M/s R.K. Associates is a proprietor firm registered under the U.P. Dookan aur Viniya Adhisthan Adhiniyam, 1962.

It is further stated that claimant was hired as contract labour and he was paid wages by the contractor and as such was reimbursed to him by principle employer. Moreover, the respondent contractor was awarded contract for supply of specific number of contract labour with duties to carry out specific nature of work as required by the principle employer establishment.

Moreover, respondent has also pleaded in written statement that contractor had been awarded for specific time.

Thus it is clear the contract labour were also engaged for specific period of contract and after completion of contract period they are deemed to be discontinued and after successful binding process and allotment of contract labour were engaged against fresh contract. The claimant was contract labour and he was hired for a specific period of work contract and he was never issued any appointment letter.

Respondent also mentioned in the written statement that the work contract in respect to which claimant was engaged there was no further requirement, therefore the services of claimant was disengaged/terminated and he was given intimation in regard to his full and final payment. The contract worker has no right to seek permanency against any post as his appointment was contractual and he has no right to continue/ seek regular employment. The terms and conditions of contract labour are governed by the Contract Labour (Regulation and Abolition) Act, 1970.

In spite of repeated opportunity had been provided to the workman to file rejoinder affidavit; however, the same has not been filed. Lastly on 03.02.2023 an order was passed, relevant portion of the same is as under:

> *"In spite of last opportunity granted vide order dated 2.12.2022, rejoinder has not been filed, accordingly opportunity of rejoinder is closed."*

On 18.04.2023, when the matter was taken up in revised list; neither the claimant nor his legal representative turned; accordingly, arguments of Sri Sharad Kumar Shukla, learned counsel for opposite party no. 1 was heard ex-parte.

Findings & Conclusion:

Thus, taking into consideration, the above said facts as well as the fact that no oral/documentary evidence has been filed on behalf of the claimant to support his claim, as such, the adjudication case is liable to be dismissed. Because in the case of ***V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194*** as under:

> *"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."*

In the case of ***M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164*** Hon'ble Allahabad High Court has held as under:

> *"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."*

And by the Hon'ble Allahabad High Court in the case of ***District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519****;* wherein it has been held as under:

> *"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."*

Thus, taking into consideration the facts on record that in the present case the workman has not filed any oral/documentary evidence in support of his claim, so the same is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

LUCKNOW.

06th July, 2023.

Let two copies of this award be sent to the Ministry for publication.

Justice ANIL KUMAR, Presiding Officer

Uploaded by Dte. of Printing at Government of India Press, Ring Road, Mayapuri, New Delhi-110064
and Published by the Controller of Publications, Delhi-110054.